



3 1761 09702041 6

INTERNATIONAL SOCIETY

PHILIP MARSHALL BROWN

JX 1391

INTERNATIONAL SOCIETY



THE MACMILLAN COMPANY
NEW YORK • BOSTON • CHICAGO • DALLAS
ATLANTA • SAN FRANCISCO

MACMILLAN & CO., LIMITED
LONDON • BOMBAY • CALCUTTA
MELBOURNE

THE MACMILLAN CO. OF CANADA, LTD.
TORONTO

INTERNATIONAL SOCIETY

ITS NATURE AND INTERESTS

BY

PHILIP MARSHALL BROWN

Professor of International Law in Princeton University.
Author of "Foreigners in Turkey" and of
"International Realities."

Pax Omnium Rerum, Tranquillitas Ordinis.

—ST. AUGUSTINE

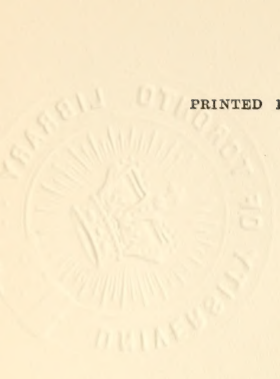
207589
7:12:26

New York

THE MACMILLAN COMPANY

1923

All rights reserved



PRINTED IN THE UNITED STATES OF AMERICA


COPYRIGHT, 1923,
BY THE MACMILLAN COMPANY.

Set up and electrotyped. Published January, 1923.

Press of
Hamilton Printing Company
Albany, N. Y., U. S. A.

TO

CAROLINE HILL BROWN



Digitized by the Internet Archive
in 2014

PREFACE

ROBERTSON of Brighton—a great idealist as well as a profound thinker—has said that: “Society is not made by will, but by facts.” This truth has not apparently been realized by many of the recent writers on international affairs. Too often they have shown a tendency toward “wishful thinking” in their eagerness to remould the universe “nearer to the heart’s desire.”

Emotional appeals have been made to the natural idealism of men without at the same time furnishing them with the solid facts concerning international society. Great hopes and visions of a new world order have been awakened to be followed inevitably by disillusionment and discouragement.

The Press has not been equal to the demands put upon it. Much has been published as news which was sheer propaganda. So-called journals of public opinion have been more intent at times on refracting international news through the prism of a fixed policy than to encourage independent observation and discussion.

When the Great War came it was necessary to improvise a whole army corps of journalists to report and interpret the amazing events. Much that they wrote was clever and instructive: it was often

“good copy”; but it contained much that was inaccurate and misleading.

No wonder under these conditions that men have become bewildered and discouraged in the face of so much turmoil and confusion of counsel! No wonder that so many intelligent and highminded students of international affairs have been at cross purposes in their arguments concerning diplomatic controversies and in particular concerning problems of world organization! They have not been able even to agree on their facts and major premises!

This volume has been written, therefore, for the purpose of presenting the results of considerable study and experience by one earnest student of the problems of international society. I realize that an authoritative work in the vast field should be written by great specialists such as Bryce and Balfour out of unusual historical knowledge and rich experience. The lack of such works, however, only emphasizes the obligation of all conscientious students to present the results of their investigations and reflections. We greatly need the contributions of diverse men and methods.

I am aware that this volume is justly open to the charge of superficiality in treating in a cursory manner so many topics deserving separate intensive study. But even if one felt equal to this stupendous task, a really thorough treatise on international society would be so encyclopedic and monumental as to be accessible to few. A great work of this character may be forthcoming, but in the meantime it would appear to be imperative at least to

draw attention to certain of the large problems requiring immediate investigation and discussion.

I do not cherish the illusion that everybody will see the facts of international society as they are here presented, or draw the same conclusions. If the facts seem open to question, others may be induced to present the results of their own independent investigations. If the conclusions are erroneous they may be led to demonstrate the defects of reasoning. My main purpose will have been attained if this volume should succeed in provoking discussion and further investigation.

I have appended to each chapter a list of references for the use of those who may desire to go more deeply into the various subjects presented. These references are listed in the order of immediate utility. Where no specific page references are given these books may be consulted for a special or general purpose through the use of the index or table of contents. The list, of course, is by no means exclusive. There are other works often of equal value to be recommended, but only certain ones have been suggested which seem to offer information and different points of view entitled to respectful consideration.

The term Nation has been used throughout this volume as the equivalent of State: it has no reference to *race*. It denotes those political entities which compose international society and which are the immediate concern of the Law of Nations.

Chapter two—"Men and Nations"—was originally published as a special article in the *North American Review* for August 1922, by whose kind courtesy it is included in this volume.

PHILIP MARSHALL BROWN.

31 July 1922.
South Williamstown,
Massachusetts.

TABLE OF CONTENTS

	PAGE
CHAPTER I. NATIONALISM	I
Evolution of nationalism: its nature and effects.	
Basis of nationalism: community of interests; language and literature; national psychology; religion; customs and traditions; political institutions: economic interests; military interests. Nationalism the most important fact of international society.	
CHAPTER II. MEN AND NATIONS	13
International society not sufficiently analysed. The inadequacy of political theories. Need of scientific methods. "Man a political animal": the creature of society: sacrifice of freedom: of action; of judgment; of will; of conscience; compensating advantages. The State as a "moral person": German concept; men and nations not identical. The State the natural habitat of man. Law of Nations distinct kind of law. Necessity of careful study of the nature and interests of the State in order better to understand problems of international organization.	
CHAPTER III. THE LAW OF NATIONS	29
Object of law to protect interests. Kinds of law. International law quite distinct; does not coerce; rests on common consent; its sanctions; diplomacy; courts; "anticipated advantages of reciprocity as well as fear of retaliation." International law is <i>law</i> . The subjects of international law: individuals included. The defects of international law: need of conferences of jurists; the value of the Permanent Court of International Justice.	

	PAGE
CHAPTER IV. NATIONAL INTERESTS	39
Nature of national rights: Legal right to exist: Recognition. Moral right to exist: self-determination. Difficulty of determining national rights: war adjustments; Paris Conference; minorities; economic interests, raw products, distribution. Basic rights of sovereignty, independence, equality, jurisdiction. Problems of jurisdiction.	
CHAPTER V. INTERNATIONAL INTERCOURSE	53
Vital concern of nations in international activities of citizens: the trader, explorer, missionary. Commercial relationships. Trade and Diplomacy: international "loan sharks." Complications and controversies. International agencies facilitating intercourse: Pan American Union; Institute of International Law; Labor Bureau; Papacy.	
CHAPTER VI. DIPLOMACY	64
Popular misconception of Diplomacy. Fallacy of democratic control of Diplomacy: need of centralized executive; great power of President. Treaties. International conferences. Unofficial good offices. Responsibilities of diplomatic agents: their functions; representative capacity. Defect of classified service.	
CHAPTER VII. INTERNATIONAL DISPUTES	76
Arbitration as an aid to Diplomacy; its nature. Diplomatic settlements. Mediation. Commissions of enquiry. Councils of conciliation. Permanent Court of International Justice. Justiciable questions: difficulty of classification. Alternatives of conciliation, arbitration or judicial decision.	
CHAPTER VIII. SELF-HELP	90
The reign of law. International law not a policeman. Means of protecting national interests: retal-	

TABLE OF CONTENTS

xiii

PAGE

iation; non-intercourse through embargo, boycott, pacific blockade; reprisals; intervention. Right of intervention. Self-help under Common Law. Obligation of law to provide a remedy for wrongs. Retarded development of international society: suppressed nationalities; political relationships unlike those within a State. Intervention justified where there is no adequate means of redress. Intervention and war. Purpose of League of Nations. Main concern of international society is justice rather than peace.

CHAPTER IX. WAR AND NEUTRALITY 101

The law of war is abnormal: not true international law. The object of war. Military necessity. Value of rules of war: the concern of military experts, not of jurists. Neutral interests versus belligerent interests: contraband in modern wars; restrictions on neutrals. Neutrality is not indifference: an abnormal state. The duty of neutrals. The League of Nations and neutrality. Necessity for adequate body of law and effective means of redress for grievances.

CHAPTER X. INTERNATIONAL ORGANIZATION 112

Unity of nations an ancient ideal: why difficult to attain. Nationalism versus internationalism. Democracy. Fallacious reasoning concerning individuals and nations; experience of the United States; varying national standards of reasoning, ethics, and justice. Difficulties in way of international understandings. Helpful agencies in international society: better to strengthen existing agencies than to create new ones.

CHAPTER XI. THE LEAGUE OF NATIONS 123

The League a "going concern": political activities; international agencies; The Secretariat; technical

sections; administrative departments; main functions. The Assembly of the League has slight power. The Council runs the League. General functions of the League: guarantees status quo; provides for discussion of disputes; coerces recalcitrant nations; seeks to coöperate. The League is a compromise. The Peace Treaties and the League. The League primarily a European concern. Suggestion of "regional leagues"; possibilities of decentralization and world coöperation. The Permanent Court of International Justice and the League.

CHAPTER XII. INTERNATIONAL POLITICS 134

The principle of Balance of Power and the League: attitude of France; fresh alignments of powers since Armistice; rivalries of powers in Near East; evil effects of Balance of Power principle. The Monroe Doctrine and the Balance of Power: hegemony of the United States; distrust of Europe and Latin-America; need of a Pan-American doctrine. Japanese interpretation of Monroe Doctrine in Far East. Disarmament. Economic factor. International conferences. Domestic politics and international politics. Religion. Zionism. Labor. The study of international politics.

CHAPTER XIII. IMPONDERABLES 150

Slight influence of reason in history: patriotism; race sentiment. Economic interpretation of history: the "revolt against civilization." Meaning of civilization: the "Science of Power"; failure of materialism. Biological tendencies: the race problem. Democracy. Class hatred. International understanding: public opinion. Ultimate problem is to find unity through diversity. The Law of Nature. Universal concepts: religion the greatest of the imponderables.

BIBLIOGRAPHY 169

INTERNATIONAL SOCIETY

INTERNATIONAL SOCIETY

CHAPTER I

NATIONALISM

NATIONALISM has passed through various prolonged stages of development. It was practically non-existent under the Roman Empire: the *Pax Romana* imposed a universal allegiance that virtually obliterated national self-consciousness.

Under feudal conditions men were "possessed by the land" and owed allegiance to a person and not to a state. They were separated by small local rivalries and prejudices. They could have no conception of a truly national ideal.

The idea of nationalism hardly began to find — feeble expression until after the Peace of Westphalia in 1648, when many small States secured recognition of their right to develop along separate independent lines.

The French Revolution greatly invigorated the spirit of nationalism. The growth of the fraternal democratic ideal served to remind men of a national sovereignty to which they owed allegiance rather than to a king. They became conscious of common traditions and interests.

The achievement of national unity by Italy and by Germany in the nineteenth century had a vast significance in awakening other national aspirations.

We are now in the midst of a new stage of development of the nationalistic idea, namely, that of *self-determination*. It is true that this so-called principle has never been clearly defined nor have rules been formulated for its practical application. It is true that this "right" received a rather heavy blow as a result of the American Civil War. There seems to be room for doubt concerning the justice of permitting self-determination where a minority might selfishly ignore the larger interests of a whole nation.

This "principle" has its decided limitations, but it is unquestionably an immense dynamic force. Within the past few years a large number of new nations have appeared or re-appeared. There are Finland, Esthonia, Latvia, Lithuania, Poland, Czecho-Slovakia, Hungary, Albania, Georgia, Armenia, the Hedjaz, and Egypt. Australia, New Zealand, South Africa and Canada are claiming a special international status, and the Irish Free State has come into being. India is in ferment, and there are nationalistic movements in other countries.

The extreme tendency of this claim to the right of self-determination is apparent. Where separate national existence could not be accorded efforts have been made to secure special guarantees for the rights of minorities.

In view of the utter vagueness of this "principle" one can never feel sure how it may be invoked, whether in behalf of complete independence, as in an abnormal situation like Fiume, or in behalf of submerged minorities, as in the case of the Ruthen-

ians in Galicia, or the Greeks and Armenians in Asia Minor.

It is evident that a great nationalistic ferment is at work throughout the nations and is producing extraordinary results. These results may be the logical consequences of centuries of oppression. They may be inevitable incidents in the laborious process of the evolution of international society. They are certainly disquieting in many respects, particularly to those idealists who are impatient to organize the world on the broadest possible basis. They are also disquieting to those Socialists who would obliterate all national distinctions and organize society on a narrow class basis. All, however, find the force of nationalism too strong to resist or to control.

Though one may properly deplore the inordinate claims of nationalism, its brutal egotism, its narrow chauvinism, he must accept it as the basic fact of international society. It is inevitable that men should gravitate together in their respective national groups. Instead of ignoring or attempting to minimize the importance of this spirit of nationalism we should aim to analyse it thoroughly, to understand its causes, its characteristics, its functions and its tendencies. And the perversion of the spirit of nationalism may even serve to emphasize its true nature as one learns the nature of the human mind through a study of abnormal psychology.

Why do men have such powerful national preferences? Are they not to be regarded rather as

primitive, narrow prejudices? Is it not time for men to be truly cosmopolitan, and throw in their lot indifferently with any portion of the great community of nations? The answer to these questions can only be found by a dispassionate objective study of international society; and one must begin by a study of the nature and objects of the state itself.

First of all, it is clear that men have a natural preference for other men who speak their own maternal tongue, who think in similar terms, and who in a higher stage of development share a common literature. We have here the fundamental cleavage among nations. Men who speak and think in different languages do not have similar mentalities or processes of reasoning. They do not draw the same conclusions from the same premises. Their standards of humor, ethics, manners, literature, business and of justice may differ profoundly by reason of this linguistic difference.

There is unquestionably such a thing as national psychology, and the basis of it would seem to be linguistic and ethnological.

To this difference of language must be added, in some instances, that of religious preferences and prejudices. It not infrequently happens that nationality and religion are identified as one and the same. The Ottoman Empire is an illustration of this. In Spanish speaking countries, it is customary to speak of one's fellow citizens as *coreligionarios*. Protestantism in Ulster and Catholicism in the rest of Ireland are inextricably mingled with politics.

Lutheranism in Prussia and Catholicism in Bavaria have a most important bearing on the national unity of Germany. It would not be surprising if Bavaria should prefer a separate existence as a Catholic state.

The Church of England, the Orthodox Greek Church, the religious cults of Japan and the Orient all emphasize the importance of religion in nationalism.

It may safely be said that nowhere does language make so vivid and special an appeal to national sentiment as in those religious observances such as marriage, baptism, death, public sorrow, or popular rejoicings which are at the very core of human life. Religion, even where it may appear to be neglected, is nevertheless a powerful factor in nationalism. It certainly has a great influence on the development of different national standards of ethics and morals.

Under the influence of language and of religion in the process of centuries of development, arise national customs and traditions, having great sentimental, and often, sacred significance. Folk-lore, games, dances, feast days, the worship of ancestors, the cherishing of places and events; all these have a powerful influence in moulding national sentiment and creating patriotic feeling. Hungary has its Mohacs Field; Serbia its Kossova; France its Bastille, its Joan of Arc; England its Runnymede, its Shakespeare; Italy its Rome and Dante; and the United States its Washington, and Thanksgiving Day. Many of these traditions, observances and

rejoicings find a sympathetic response in other lands, but they are primarily a matter of local pride. They serve to vivify and accentuate the spirit of nationalism.

Then, too, there are political ideals and institutions which have been evolved in harmony with national psychology. Men naturally learn political principles and methods through customs and traditions.

No two nations have identical political systems in all details. There are differentiations and adaptations according to the peculiar factors and conditions in each nation. The Swiss have their own characteristic communal assemblies; the British and American their own town meetings, and special aptitude for committees. Theories of executive and legislative responsibility vary profoundly in Spain, France, Japan, and other nations.

These political ideals and institutions, therefore, make varying appeals. Millions of Europeans have come to the United States to enjoy the blessing of Anglo-Saxon political ideals. And it is this extraordinary Anglo-Saxon leaven—this ideal of liberty of respect for law, of representative government, of organization, and of the administration of justice, that has enabled America to assimilate so great a mass of heterogeneous elements.

Whatever the country may be and whatever its political institutions, we are bound to recognize the powerful influence of these political preferences on the growth of nationalism. Men necessarily gravitate into that special environment most con-

genial to their temperament and manner of political thought. And out of these different nations are coming political experiments and lessons of the greatest value to all.

Of lesser importance in creating national preferences are the economic and military factors. There are nations primarily agricultural in character, such as Denmark and Holland, whose nationals are very much of one type. There are highly industrialized nations, such as Great Britain and Germany. There are nations where the agricultural, industrial, and commercial interests are extremely well-balanced, notably in France and the United States.

Nations which, like the United States, are relatively self-sufficient with respect to essential raw products, are naturally in a most fortunate position, when contrasted with States, like Italy, that are dependent on other nations.

Certain nations, like France and England, are most fortunate in the possession of excellent colonial markets for the distribution of their surplus products.

There are special situations, such as the Italian control of Trieste, where the inhabitants of the Slavic *hinterland* find union with Italy desirable because of economic privileges. There are obviously many geographical factors, such as the use of great water-ways, like the Danube and the Rhine, or railroad systems such as were built up in the old Austro-Hungarian Monarchy, which profoundly influence nationalistic preferences.

It is necessary, however, to concede that the eco-

conomic factor in nationalism would cease to be of much weight if it were possible to secure perfect freedom of commercial intercourse. Nationalism has been intensified largely by economic rivalries, the control of raw products, of markets, and of ways and means of distribution. It is undeniable that tariff wars have long been a constant menace to friendly understandings among nations.

We have been so accustomed to think of nationalism in terms of language and race, that we have ignored this important economic factor in the maintenance of world peace. As long as certain privileged nations hold other nations in their power through the control of economic forces, there is bound to be an intensifying of national jealousies and hatred.

During the Great War, England, France, Italy, the United States and other Allied Nations, under the pressure of necessity, were able to pool their economic interests for the sake of the big end in view. They learned the advantages of a generous spirit respecting their mutual economic needs. There seems to be no logical reason why a similar spirit, though lacking an immediate and imperious incentive, should not exist in time of peace. At any rate, it should be quite apparent, as in the conspicuous instance of Italy, that the interests of international peace demand frank and generous understandings in these fundamental matters of national resources, production, and distribution. The fight for liberty is now taking the form of

the struggle for international freedom of intercourse.

Concerning the influence of the military factor on nationalism, it is necessary to admit regretfully that though no longer of the great importance it formally exercised in creating and solidifying nationalistic jealousies, it is, nevertheless, still of some weight, notably in Europe. The Swiss, obviously, though of varying tongues and creeds were originally welded together into a common nation because of their common foes. As has been well said, they were held together like the staves in a barrel by the outside pressure of the hoops.

In spite of the attempt to secure a general guarantee of international rights through the League of Nations, a good many nations find themselves still under this military pressure. Poland, for example, created out of various of its neighbors and actuated, as it would appear, by dazzling dreams of greatness, is under the necessity of maintaining a large army, not merely as a defence, but to consolidate permanently the territory already acquired.

Hungary, by reason of the amputations and mutilations suffered at the Peace Conference in Paris, is intensely militaristic in spirit, in the purpose and in the hope of winning back eventually its lost provinces. So also in Jugo-Slavia, Bulgaria, Albania, Greece, and elsewhere. France herself is experiencing a certain militaristic fervor because of the fear of renewed aggression by Germany.

Under such lamentable conditions it is impossible to eliminate the military factor as an influence in

maintaining at white heat the sense of patriotic devotion and obligations in many countries throughout the world. As long as men are conscious of national interests—whether economic or otherwise—which they must be prepared to defend by force of arms against actual aggression, or in the prosecution of rightful aims, it is inevitable that the spirit of nationalism will be strong and vigorous.

Such are the main impulses, the basic reasons why men give their patriotic devotion to distinct national groups. In each instance we find various interests binding men together into a nation. In some instances the linguistic and religious factors may be the most influential, as, for example, in Spain. In other instances, as in the case of Switzerland, these factors may be in antagonism; but a strong spirit of nationalism exists nevertheless because of a common love of liberty and of common foes.

In some instances the spirit of nationalism has only recently found expression, as in Albania or in Finland. Where nationalism is in its adolescence, its evolution into full maturity may be slow, as in the case of certain Latin-American countries. The rest of the world in the case of this political immaturity may have either to assume the obligations of guardianship, or to adjust its own ideals of international intercourse and organization to the necessity of allowing time for the evolution of the national culture of these less fortunate countries.

In certain instances, as in the case of Germany before the war, and of other nations since this war, the spirit of nationalism may assume the exagger-

ated form of what has euphemistically been termed "sacred egoism." There are, unfortunately, nations who have become intoxicated with national success and power.

The dangerous tendencies of nationalism cannot be too strongly deplored. This desire for self-determination and self-expression among nations unquestionably stands in the way of world peace and organization. But nationalism, like the institution of matrimony, should never be decried because of its occasional unhappy results. It must be accepted as the basic fact of international society. Wherever it can be shown that a distinct national community of interests exists among men capable of fulfilling their international obligations without injury to the interests of others, we must recognize the working out of a logical principle of evolution. History has shown only too tragically the disastrous results of attempts to suppress reasonable nationalistic aspirations.

Men must be permitted to live according to their own preferences in the communities where they can find their highest evolution as individuals. They must breathe the social, intellectual, political and religious atmosphere best adapted to their peculiar needs. They must find their own native habitat.

It is the fundamental problem, therefore, of international society to take cognizance of the diverse interests that bind men together in distinct national communities. It is the function of international diplomacy to reconcile conflicting interests. It is

the function of international law to protect these interests once they have been defined and recognized.

REFERENCES

International Law: L. Oppenheim, Third Edition, Vol. I, p. 463-523.

The Nature of the State: W. W. Willoughby, Chapters III and VI.

Nationality in Modern History: J. Holland Rose.

The Rise of Nationalities: Cambridge Modern History, Vol. XI.

Nationalism and Internationalism: Ramsay Muir.

Nationality and the War: Arnold Toynbee.

The Frontiers of Language and Nationality in Europe: Leon Dominian.

The New World: Isaiah Bowman.

Some Problems of the Peace Conference: Charles H. Haskins and Robert H. Lord.

Physics and Politics: Walter Bagehot.

CHAPTER II

MEN AND NATIONS

IN CONSTRUCTING a battleship one would hardly consult a milliner. In planning a bridge across the North River, the advice of a doctor would be of slight value. In treating cancer, the opinions of a lawyer likewise are not to be taken very much into account. Whatever the problem, whether of a bridge, a battleship, disease or human society, we ordinarily insist first of all on a thorough knowledge of materials; the nature of steel, for example, in the construction of a battleship or a bridge, and of anatomy in the case of the human body. One cannot base plans on the supposition that steel is the same thing as wood, or the human body the same as metal. Furthermore, we demand a precise knowledge of the laws governing construction, such as strain and stress, etc. In the case of the human body we are concerned with the laws relating to vital functions.

In the field of international relations, curiously enough, we find that the doctor, the lawyer, the milliner, and the "man in the street" all reveal an equal competence. All are ready with a definite explanation of the ills of international society, and are prepared to suggest how this universe should be run. In very few cases may it be said that these

competent authorities have an accurate, scientifically trained knowledge of the exact nature of international society, and of the laws governing the functions and the relations of nations. The preacher approaches the problem from the general principle of the brotherhood of man; the lawyer from the argument of analogy to ordinary political institutions, and the rest from various points of view, mostly of a sentimental or emotional character.

This general ignorance of international society may be classified under three headings: the nature of the State, the interests of the State, and the laws governing and controlling these interests.

Concerning the nature of the State, apart from the political theorists, few persons can tell you what it is, what are its objects and how it functions. The definition of the interests of nations is so excessively difficult that it has primarily to do with the causes of war itself. If nations only could agree as to the precise interests of each and all, peace would not be difficult. But even when they have agreed upon certain of their mutual interests the formulation of the laws to protect these interests is far from an easy task. In fact, it must be admitted that international law in this respect is still in an early stage of development. There are vast areas where no legal remedies are yet available. And then there remains the stupendous problem of the best means of safeguarding the rights of nations once their interests have been determined and the laws for their protection formulated.

I must confess to a personal impatience with the

political theories of Hobbes, Locke, Rousseau and the rest. I do not deny that they served a certain valuable purpose in the early evolution of political thought. They are most ingenious, and at times stimulating, but I hold that they have very slight relation to the world of reality. I fear that they have even confused and misled many earnest political thinkers in their efforts to solve the problems of human society. It would seem as if we had now reached the stage in our political evolution when the only effective method for the study of politics is the laboratory method—the practical, hard, objective test of analysis. I believe that this method can be applied to human society and particularly to international society with the greatest success, even where we have to take into account ideas and emotions which may be considered subjective in character. In the latter instance, as in psychology, I believe it possible to submit testimony of this subjective nature to an objective analysis which, in the case of national differences and rivalries, may be of the utmost significance. We should, in an honest spirit of inquiry, shun with horror the emotional and sentimental method of considering this problem and should concentrate our investigations open-mindedly—and not unsympathetically—on the definite problem of the very nature of international society.

I know of no more fundamental problem in this connection than that of the relation of man to the State, for the reason that there is an obvious confusion of thought, a tendency to confound the

State and the individual as one and the same thing. This is constantly appearing in the arguments of statesmen and publicists of high distinction. I suspect this is due in many instances to the pernicious influence of political theorists of the school of Hobbes, Locke and Rousseau. I recall an assertion by Lord Bryce in his lectures at the Institute of Politics in Williamstown in 1921, to the effect that nations were still living in a "state of nature." Such a state of nature remains yet to be demonstrated as an actual fact and not as a mere political concept.

It is an amazing fact that little of an original analytical nature regarding the relation of man and the State has yet been published, allowing of course for occasional incidental allusions to the problem. Perhaps the most valuable contribution to the subject is to be found in the recent book of Professor MacDougall on the subject of *The Group Mind*. One can find here most suggestive observations as to the exact nature of international society and the functions of nations. Another book of lesser importance but still of much interest is that by Miss Follett on *The New State*. Certain of the most recent attempts to deal with this problem are of much less value for the obvious reason that the authors are endeavoring to sustain some preconceived theory concerning the nature and organization of international society.

In approaching this problem of the relation of the individual to nations, we are bound to start with the classic statement of Aristotle, that "man is by

nature a political animal." It is necessary, however, to consider this assertion in the light of its original context. What Aristotle really said was: "It is evident that the State is a creation of nature and that man is by nature a political animal. The State is by nature clearly prior to the family and the individual, since the whole is of necessity prior to the part." In other words, man is a political animal not because he has a divinely given political sense, but because he is the product of organized society. This is a profound observation which demands the most earnest study. Its truth may be ascertained by various tests.

Obviously, by approaching the problem from a biological standpoint, as does Professor Henry Jones Ford, in his most stimulating volume, *The Natural History of the State*, it is not difficult to show that the *homo sapiens* was originally a gregarious animal and that it was by this gregarious instinct that he was able to secure his higher development and, specifically, his political evolution. Here we run counter to the political theorists who would insist on some intelligent, deliberate decision on the part of man to abandon a state of nature and secure for himself the benefit of organized society. It would seem as if the argument of the biologist was of infinitely greater value than that of the political theorist.

We may, however, approach the problem from the political point of view, or rather the philosophical point of view, and seek by an analysis of the exact nature of political society to test Aristotle's

assertion that man is the product and not the creator of organized society. It is a matter of common experience that a man living in the open country apart from the immediate restraints of society is quite distinct from the citizen living within an organized community. When men met in the open country in what we were formerly accustomed to call "the frontier," they met in a challenging spirit and reserved to each an enormous liberty of action which they could not claim in a city. From the higher intellectual and ethical points of view, it may be argued whether this was true liberty, but it certainly was liberty of a very primitive sort.

When a man leaves the open country and settles in an organized community, he submits himself to many restraints. He makes, for the sake of other compensating advantages, what might be termed actual sacrifices. First of all, there is the sacrifice of physical freedom. He cannot dash madly through the crowded street as he would in the open prairie. There are fences, walls and policemen to impede his freedom of movement. He may not shout and sing as he may feel inclined to do in the open. There are others not only to be considered but to be protected against noise, disturbance and injury.

Secondly, the individual in society makes the great sacrifice of freedom of judgment. He cannot decide even about his own family affairs without running counter at times to the judgment of men about him. The first lesson he must learn in organized society is "a decent respect for the

opinions of mankind." This he finds to be a basic principle of political society. Those who have served on committees, on boards of directors, on college faculties and other deliberative bodies, know this painful truth. Deliberations and discussion in groups not infrequently lead to decisions which no one individual of the immediate group concerned would be prepared to admit conformed entirely to his own personal judgment. In such discussion each makes his own contribution and oftentimes throws light on the subject for the rest. "Taking common counsel" is literally to submit a problem to the consideration and decision of all. It is viewed from every angle—of fact, of opinion, of logical deduction and of ethical consideration. The consensus of opinion—a decision attained in such a manner—generally represents the mature judgment of no one individual in the group. It is a resultant—a composite, a strange product that may not always conform to the ordinary tests of logic. Such is the normal process by which a nation reaches its decisions and governs its actions. Such is the sacrifice of the freedom of individual judgment which a man must make when he claims the privileges of organized society.

Thirdly, from the foregoing it is evident that the individual in society is compelled to make a sacrifice of his freedom of will. He can neither decide nor act according to the imperious demands of his own personality. He is compelled to merge his own will into the general will of the State. This often seems to exact a most painful sacrifice, but it is one that

he makes as a "political animal" for the greater good of the whole.

And fourthly, it is evident that under such conditions the individual citizen is compelled to make a certain sacrifice of conscience. He must be governed by the judgment and the will of his fellow citizens as expressed through the State. This implies an abdication of his own moral conscience. He may doubt; he may seriously question the wisdom and the moral value of their decision and action; but unless he is a genuine revolutionist, or an extreme individualist, or an actual anarchist, he conforms his conscience to the composite conscience of all. Here we have the justification for revolutions where a citizen firmly believes that an intolerable wrong is being committed which compels him conscientiously to take up arms. Ordinarily, such revolts are due to the tyranny of a few, and are much less frequent in recent times. It is possible, naturally, that even in the best organized democracy a moral issue may arise through the tyranny of the majority where revolt is the only available recourse. This, however, is not very likely; and in the ordinary course of events, no matter what personal reservations of conscience an individual citizen may make concerning the decision of the rest, he literally assents to the bold statement of patriotic duty, "My country, right or wrong." All that he means by this would appear to be that once democracy has decided, a due regard for the opinions of his fellow men compels him to submerge his own judgment, will and

conscience into one national judgment, will and conscience.

These are the main influences working in organized society which would seem amply to demonstrate the truth of Aristotle's assertion that "Man is a political animal," that he is a different individual in the State from the individual in the so-called "state of nature," that, in sum, he is the product of the State and not the original builder of the State. In other words, the State is to be regarded as an organism in which man finds his own peculiar functions and his greatest opportunity for individual development. The sacrifices which he may appear to make of the freedom of his own personality are more than compensated by the opportunities for his higher intellectual and ethical evolution within the State. He serves the State because the State best serves him. But he is not to be identified with the State itself; a nation is something more than an aggregate of individuals. It is, as Vattel says, "a moral person who possesses an understanding and a will peculiar to itself and is susceptible of obligations and rights." When he says, however, that a State is a "moral person," we must be on our guard.

From what has preceded, it is evident that a State is not an independent personality, possessing the freedom of will, judgment, action and conscience of an individual. A sentient human being, possessing what might be termed integrity of personality and character, may make rational decisions, love, hate, sacrifice, and conform, even quixotically,

to what he may consider the dictates of conscience. Ethical rules and considerations necessarily should play a very considerable rôle in all his actions. They may even involve him and his family in ruin or death.

It would be palpably untrue to say that the State is a "moral person" in the same sense as the individual, even in the case of the responsible officials entrusted with the direction of the affairs of a nation. No matter what their personal predilections may be, they are not free to carry into effect their own conceptions of duty and responsibility unless it should happen that they are irresponsible tyrants. The official decisions and actions of a nation, as we have seen, proceed from the common judgment, will and conscience of all, and this is something quite distinct from the individual will, judgment and conscience. Ethical considerations naturally cannot be ignored by the State, but it would be entirely inaccurate to say that the State reacts as a "moral person" in identically the same manner as the individual. What Vattel meant when he spoke of the State as a "moral person" was that a State, in order to enjoy rights and to meet its responsibilities, must be considered a moral person in a *legal* sense. He was not attributing to the State a moral personality possessing the attributes of a human being.

We are accustomed under the influence of the recent war to look with distrust on German methods of political thought. Their exaggeration, their perversion of the idea of nationality, has led us to

regard the German conception of the State as something unreal and fantastic, particularly when it involved the worship of the person of the Kaiser as the supreme embodiment of the State. It is true that the Germans were inclined to worship the State as a sacred entity, as much the object of a cult as a statue of Buddha. I believe, however, that there is a substantial truth in the German theory of the State as enunciated by the Swiss publicist Bluntschli, when he said:

An oil-painting is something other than a mere aggregation of drops of oil and color; a statue is something other than a combination of marble particles; a man is not a mere quantity of cells and blood-corpuscles; and so too the nation is not a mere sum of citizens; and the state is not a mere collection of external regulations. . . . In the State, spirit and body, will and active organs, are necessarily bound together in one life. The one national spirit, which is something different from the average sum of contemporary spirit of all citizens, is the spirit of the State; the one National will which is different from the average will of the multitude, is the will of the State. . . . To extend the reputation and the power of the State, to further its welfare and its happiness, has universally been regarded as one of the most honorable duties of gifted men. (The Theory of the State: Bluntschli, p. 18-19. Third Edition.)

In properly estimating the value of this theory of the State, we must try to forget the ardent sentiment which led Germans in their patriotic zeal to exalt the State so highly. We should remember that German statesmen, such as Bismarck, were careful in their legislation to persuade these fervid devotees of the State that it existed to further

the welfare and best interests of all. This is the essence of the best kind of nationalism: namely, the common realization of the fact that the highest evolution of the individual is to be found in organized society, and that a loyal devotion to one's own group is the most effective way of serving the interests of the greatest number. In this sense, therefore, in view of the vast differences of language, of sentiment, of tradition, of ideals and even of interests that characterize the many distinct national groups throughout the world, there is nothing more sacred, nothing more essential for the evolution of mankind, than the protection and the furthering of national aspirations. As in the animal kingdom, so in society, a man can only develop his best powers in the habitat and *milieu* to which he is by nature best adapted. This is merely the plea for the freedom of the individual within nations, exactly as we insist on the freedom of the individual in education, religion and other lines of activity. We must insist on the freedom of nations to work out their own problems according to the genius of their own national instincts and institutions, firmly believing that only in this way can groups of individuals make their richest contributions, scientifically or ethically, to the highest evolution of the human race.

If one can conceive this function and this supreme value of the State in the evolution of man as a "political animal," he can more sympathetically understand what loyalty to the group, or national patriotism, really means. He can more readily appreciate the justification as well as the explanation

of national differences, yes, even rivalries, provided they be laudable rivalries for the ultimate benefit of the human race. He can understand those extraordinary peculiarities of national temperament, the divergencies even in methods of thought and also of ethical standards, that variously characterize a Frenchman, a Britisher, a Dutchman, an American, a Japanese, a German, etc. He can better realize why it is that men of different nationalities feel a glow of sentiment and a willingness to submerge their own personalities into their respective nations. Under such conditions, a citizen comes to realize that not only is he not a free personality in a loose association or corporation of other individuals, but that he is integrally a unit in a vast organism which in a sense is immortal, which perpetuates itself, replenishes its life, and, in the Bergsonian sense, is very much like an onward flowing river, composed of patriots of many generations past as well as of the present, and receiving into itself generations yet unborn.

These, it seems to me, are the main reasons which justify the individual in making what would appear to be such great sacrifices of integrity of judgment and character. No matter how vaguely sensed, or feebly expressed, it is this realization of the ends of political, social and ethical evolution that justifies a man in making these sacrifices, and that convinces him that there are compensations that vastly outweigh them. He serves the State because the State best serves him. Any other conclusion would seem clearly to lead to anarchism.

There are two general conclusions of moment regarding international society which should be particularly borne in mind. The first is, that if the State is an entity quite distinct from the individual, and responding to different standards of reason and ethics from those applied to the individual, it must necessarily follow that the law protecting the interests of nations and controlling their inter-relations is a vastly different kind of law from that governing the relations of individuals. This distinction is fundamental in any study of international society, for the reason that inevitably we are inclined to reason by analogy from municipal society and law. It is infinitely more simple, more restful, more satisfying, to think of nations as we would think of our own particular community; but this is futile when one once realizes the basic difference between the State and the individual. When one has a glimpse of the problem of protecting and advancing the interests of millions of human beings pursuing their own best ends along separate but convergent lines of national instincts and institutions, he realizes that ordinary reasoning by analogy is not only insufficient, but quite disastrous.

This is particularly obvious in the case of those followers of Austin who are unable to think of law in any other terms than that of the policeman. To them law is an order, a command; and disobedience to the law is to be met immediately with punishment. They cannot conceive of law as it is to function between these mysterious entities we call nations. This leads inevitably to futile arguments

and conclusions quite simple often in their nature, which have very little relation to the facts of international existence. In order to get anywhere in our task of understanding international society, we must, first of all, have a clear understanding of these fundamental problems we have been considering, namely, the nature of the State, the interests of the State, and the law which shall best protect and advance these interests among nations. I am frank to confess that as I consider the points of view of eminent publicists and statesmen on the subject of international law, I am led to infer that they have not always understood the exact nature of international society. There is an immense need for original, hard thinking in this whole field before we can make much headway in solving the great problems that now confront the society of nations.

The second general conclusion is that the problem of international organization becomes increasingly difficult when viewed in the light of the preceding considerations. How can we even discuss to any great advantage the problem of international organization—more definitely, the organization and functioning of the League of Nations or of any conference of nations called for the purpose of furthering the best interests of all—when we have not even agreed as to the precise nature of this society or of the law which should reign supreme? Such discussion would not only seem futile, but even dangerous when it results in an accentuation of the sense of difference of interests among nations, and fails to accentuate their common ultimate interests.

Under such circumstances we should charitably make all due allowances for our inability to agree on methods and programmes for international conciliation or organization. Lamenting the palpable fact that we are arguing from different premises, some of which are bound to be false, we should labor to encourage a more scholarly, dispassionate study of these vast problems of international society which it has been the purpose of this chapter to outline and suggest.

REFERENCES

International Law: L. Oppenheim, Third Edition, Vol. I, p. 456-463.

The Nature of the State: W. W. Willoughby, Chapter XII.

The Theory of the State: J. K. Bluntschli.

The Group Mind: William McDougall.

The Natural History of the State: Henry Jones Ford.

The Crowd: Gustave Le Bon.

Instincts of the Herd in Peace and War: W. Trotter.

The Morality of Nations: Cecil Delisle Burns.

The New State: M. P. Follett.



CHAPTER III

THE LAW OF NATIONS

THE object of law is the protection of interests. The determination of interests is through discussion and common consent. The evidence of law is in this common consent, however manifested. The force of law lies in the respect men have for it. Men obey law as a rule not because of a policeman but because of respect for law. Law prevails only when it serves the common good. The occasional appearance of an outlaw in a community does not prove that there is no law.

There are many kinds of law, differing in their objects, in nature, in importance and in enforcement. There is Constitutional Law which at times is at odds with other law. There is Criminal Law, Canon Law, Corporation Law, Police Law, Admiralty Law, etc. The same tests may not properly be applied to all. The special interests they aim to protect, and the most appropriate methods for insuring this protection must be carefully distinguished. No narrow arbitrary criterion may wisely be applied to all alike, unless it be the test suggested by Jellinek: "All law has as a necessary characteristic that of prevailing 'Gültigkeit.' "

The Law of Nations, therefore, must be studied apart from other law. To understand it properly

we must avoid either false reasoning from analogy, on the one hand, or arbitrary definition, on the other. To *define* is to limit, to circumscribe—in sum, to misapprehend.

When we realize that the Law of Nations has for its primary task the protection of the interests of national communities which vary profoundly in standards of intelligence, ethics, justice, culture and general civilization, we see that it is fundamentally different from all other law. Furthermore, when we acknowledge that national communities are separate entities or organisms which function in ways quite distinct from the ways of individuals, we must logically acknowledge that the ordinary standards—the tests we apply to other kinds of law—are utterly inadequate when applied to the Law of Nations. The interests of nations are controlled by a kind of law distinct from that of the Police Court. It is not a bundle of petty regulations to be arbitrarily enforced. It aims not to coerce; it rests on general consent. It makes its appeal primarily to the enlightened self-interest of nations. The vital interests of vast communities are not to be regulated either by a sovereign legislature or by a sovereign executive. Neither are they to be arbitrarily defined or disturbed by judicial interpretations of international tribunals. The Law of Nations is distinct both in kind and in degree from other systems of law.

In view of the fact that the Law of Nations is a different kind of law from other systems, it necessarily follows that the methods of its enforcement must also differ. It is here that the adherents of

the Austinian concept of law, in their primitive belief in a policeman as the only sanction of law, make their most serious attack. To them International Law is largely, if not exclusively, a system of "morality," of pious wishes and ethical exhortations. According to their point of view, International Law broke down during the recent war, though, as a matter of fact, they would seem to confuse the abnormal Law of War with the normal Law of Peace. The Law of War is one that properly does not belong in the same category with the Law of Peace. The maxim *inter arma silent leges* should exclude the Law of War from our consideration. We are preoccupied with the problems of international society in normal times of peace.

In normal times of peace the Law of Nations finds its sanctions, first of all, through the ordinary agencies of diplomatic intercourse. It is enough to appeal to established law and usage in order to prevent infractions of International Law. We usually hear only of the failures of Diplomacy; we do not note its silent though effective triumphs. In fact, in most international relations it is wiser to ignore such temporary differences once they have been smoothed over. To boast of diplomatic successes of this character can hardly conduce to friendly international intercourse.

Then, too, government officials throughout the world are accustomed, when questions of international right arise, to render their decisions in accordance with established law and usage among nations. This is particularly true of treaty rights,

though it is also true of other rights sanctioned by general observance.

The courts, also, of all civilized nations stand open to enforce International Law. There are more than two thousand adjudicated cases in American courts which have to do with the Law of Nations. During the recent war, the highest court of Germany actually rendered a decision in defense of the patent rights of a French national fighting with the French army. Few realize the part played in the defense and in the evolution of International Law through the decisions of courts. It is a sanction which should appeal primarily to the followers of Austin.

The greatest sanction, however, of International Law, which lies behind the action of governments is that which has been well termed by Gareis as "anticipated advantages of reciprocity as well as the fear of retaliation." This powerful sanction, this compulsive force of reciprocal advantage and fear of retaliation, is nothing else in its essence than the Golden Rule, as formulated by Thomasius, "Do unto others for thine own sake what thou wouldst that others should do thee, and, in so doing, accept a law from which thou canst not escape." In other words, that nation which fails to respect the rights of other nations must necessarily incur either the loss of similar privileges or even the penalty of retaliation. This sanction is of the utmost significance when applied to the vast interests of international society. It is a sanction which in normal times is entirely adequate. Intervention or

war are the other dread alternatives which confront a nation if it fails to respect the Law of Nations.

There has been much academic controversy on the subject whether the Law of Nations is entitled to be called true *law*. It may be conceded that it is a different kind of law, that it is differently enforced and that it does not always seem to be effective; but that it is entitled to be considered as true law would now seem to be firmly established. It is considered as a part of the law of all civilized nations and entitled to equal respect. The Supreme Court of the United States has repeatedly recognized the Law of Nations as a part of the law of the land. In conflicts between Acts of Congress and the principles of International Law it has been held that said Acts should be interpreted whenever possible as in no way intended to infringe the Law of Nations. There would appear, then, to be no place for discussion concerning this question of the *legal* standing of International Law.

The Law of Nations applies to a variety of subjects. It is customary, of course, for the publicists to insist on a rigid classification, namely, of Public International Law, Private International Law and Maritime Law. It is ordinarily held that Private International Law, or, according to English and American terminology, Conflict of Laws, concerning such matters as inheritance, guardianship, marriage, divorce, domicile and even nationality, have nothing to do with the main body of Public International Law, which is held to apply only between nations. The attempt to separate these fields

would seem to be contrary to the lessons of actual experience as well as of logic. In any one of these cases, particularly that of nationality, discussions are bound to arise which must obviously involve the general problem of international right. And whenever a question of international right arises, it would be pedantic and academic to try to draw distinctions between public and private rights.

The increasing interdependence of nations and the easy means of intercommunication have resulted in multiplying and complicating the relations of nations through the enterprise of their citizens. Questions of commercial law, questions of maritime law, questions of all sorts are constantly arising where the principles at stake require international recognition and action. In all such ways the field of the Law of Nations has been tremendously broadened, and attempts to draw fine distinctions of a more or less fictitious character must necessarily fail.

The rapid development of International Law nowadays is compelled to include in its scope an increasing variety of problems which may not properly be left to the arbitrary action of separate nations. It is becoming more and more catholic in character and deserving of much more serious consideration and respect.

Perhaps the most significant tendency of this development has been in the growing realization that the Law of Nations no longer can be said to be restricted to the rights of nations *per se*. It is now evident that it applies as well to the rights of indi-

viduals. The publicists assert generally that individuals have only such rights internationally as are attached to the nation to which they owe allegiance, that, strictly speaking, international law only applies between states. But if we are to infer that a person who is *heimatlos*, namely, in the unfortunate position of having no stated nationality, is entitled to no specified rights, this would obviously be a gross injustice. If we are to infer that citizens of weak states have less rights than citizens of strong states we are unduly discrediting International Law. Reason and experience together are against any such hypothesis. Out of international usage as well as out of treaties have arisen certain principles which are universal in their application and may be invoked indiscriminately by anyone, no matter what his national status may be. It is particularly clear in the case of international conventions determining general rights and obligations, as for example in the matter of Private International Law. Individual rights are unquestionably created which need only to be invoked in order to be respected.

It is also of interest to note that in the matter of extradition, international usage has become so crystalized and definite through the negotiation of numerous treaties that there now virtually exists a general body of rules and principles of extradition applicable without distinction of nationality.

In sum, the Law of Nations has now reached a stage in its development when it may be fairly claimed that it includes in its sweep all members of

international society without respect of persons. In other words, it is time to proclaim that men have rights as citizens of the world not merely as citizens of particular nations.

In what has been said thus far, there has been no intention to ignore the fact that the Law of Nations is far from perfect. It must even be conceded that in certain fields of human interests it is in a backward state of development. There are many *lacunae* to be supplied. This is inevitable when we remember that we are dealing primarily with the tremendous interests of great national communities of millions of human beings, and that furthermore, as the purpose of the Law of Nations is to protect these interests it can only do so through the common consent of nations. In our consideration of the subject of Nationalism we saw how laborious a process this is, particularly in the case of those new nationalities whose political development has been retarded unjustly. We cannot fail to perceive the difficulties first in the way of defining those great national interests, second, of securing agreements concerning the law, and third, of protecting such interests.

The Commission of Jurists of which the Honorable Elihu Root was perhaps the most influential member, in their report to the League of Nations concerning the establishment of the Permanent Court of International Justice, urged the importance of special conferences for the purpose of securing agreements covering those fields where International Law hitherto has provided no guiding principles.

This suggestion is of the utmost importance. It would seem to be an imperative necessity in order that the Law of Nations first of all may adequately meet the increasing demands of international society, and secondly that the new Court of Justice may have at hand the necessary body of law to apply to the various disputes which may be submitted to its jurisdiction.

The work of this new Permanent Court of Justice is of the utmost importance for the future of International Law. Hitherto the various decisions of national courts and international tribunals of arbitration have been sporadic and for the most part unrelated. There has been no agency for welding these varying interpretations of usage into one coherent mass. Furthermore, as has often been pointed out, the decisions of Arbitration Tribunals have, as a rule, the tendency to seek a diplomatic compromise rather than a strictly judicial determination of the dispute in question. The Permanent Court of International Justice, therefore, may serve a most valuable purpose in crystalizing into one clear, well-balanced system of law what must be confessed to be more or less without proper form or universal understanding. This is not to imply that the Court should have powers of judicial legislation. Such power is entirely abhorrent to the very spirit of the Law of Nations which depends for its respect and for its sanction on the general consent of all nations. But the Court, in the process of time, may seek to interpret in a lofty, generous spirit these principles which may be said to have

received the approval of civilized nations and, by making the law more definite, more certain and clear, will make it easier for all nations to have recourse to the judicial settlement of international disputes.

REFERENCES

International Law: L. Oppenheim, Third Edition, Vol. I, p. 1-121.

International Law: John Westlake, 1904, Vol. I, Chapter I.

Institutes of the Law of Nations: James Lorimer, 1883, Vol. I, p. 1-90.

Introduction to the Science of Law: Karl Gareis, p. 287-291.

Jurisprudence: T. E. Holland, Tenth Edition, Parts IV and V.

The Nature of the State: W. W. Willoughby, Chapters VII and VIII.

CHAPTER IV

NATIONAL INTERESTS

WE have seen that man as a "political animal" finds his natural habitat,—his highest development—within a group; that he has marked preferences and interests binding him inevitably to his own nation. We have seen that it is the object of International Law to protect these national interests which hold men together. Once these interests are formally recognized they become *legal* rights. Our present concern is to examine into the nature of these rights.

It is customary to speak of the *fundamental, inherent, primordial, or inalienable* rights of nations in terms strongly suggestive of Natural Law. They are generally classified as "the right to exist," "the right of sovereignty," "the right of independence" and "the right of equality," together with the subsidiary rights of jurisdiction and intercourse.

The *legal* right of a nation to exist flows from its formal recognition as a member of the family of nations. From that moment a nation is entitled to all the rights of an international "moral personality." It is likewise bound to assume all of the corresponding obligations. This is why *recognition* in International Law is surrounded by so many forms and is of so great importance. Recognition should never be lightly accorded. It should be solemnly respected once it is accorded.

But the *moral* right of a nation to exist is of greater importance; it is in fact the fundamental problem of international society. If men having a real community of interests and capable of fulfilling all international obligations are frustrated in their legitimate aspirations, international society is on a false foundation and the Law of Nations itself unable to function properly.

It would be absurd to affirm that the various tribes and kindreds of this world can ever be arranged and classified along strictly nationalistic lines. There are many nations of heterogeneous elements such as France which have become so crystalized and fixed in character as to permit no serious changes or readjustments. A nation may become so very much like a living organism that its *body politic* should never be tampered with.

As we have already noted, nationalism, of late, in deference to the alleged *principle* of "self-determination," has had a most disintegrating and alarming tendency. One cannot well foresee what extraordinary claim a nationalistic group within an established state may set forth. Nevertheless this nationalistic instinct is so vital and dynamic that it cannot safely be ignored.

The re-arrangement of the map of Europe as the result of the recent peace settlements presents many dubious and infelicitous features. Peoples have been transferred like cattle from one nation to another without either a plebiscite or even the form of consultation in every case. New centers of *irre-*
dentism have been created in Italy, in Hungary, in

Rumania, in Czecho-Slovakia, in Poland, in France, in Greece, in Turkey and other countries.

When there is no stability to the bases of international society the Law of Nations is presented with a well-nigh impossible task. When the legal personalities are deformed from the point of view of nationalism; when members of the society of nations are dissatisfied and consider themselves defrauded of basic rights, International Law is at an enormous disadvantage.

This task of reconciling conflicting claims, of determining the legitimate rights of nations, of fixing the bases of international society, is properly the function of Diplomacy; it may not be left to courts of justice. No peoples are prepared to permit the determination of their national destinies by any arbitrary delegated power. They must preserve the "right of self-determination," at least to the extent, either of consenting to, or repudiating, any proposed adjustment of nationalistic interests.

Unfortunately, in times of peace Diplomacy does not seem disposed or able to deal with this basic problem. The occasional cessions of territory such as the partition of Africa or purchase, as when the United States secured Louisiana and Alaska, have little significance. They had primarily to do with undeveloped regions where the inhabitants were unable to assume any international responsibility. The really serious problems of Europe cannot be so treated. To suggest any alterations of the European *status quo* in times of peace is to endanger peace.

The tragic fact we must acknowledge is that these basic nationalistic settlements generally come as the result of wars. They come at a time when feelings and prejudices are too intense to permit of a just settlement: the rule of *vae victis* usually controls. Revenge, reparation and future security are the guiding principles. No wonder that international society is on so unstable a basis or that men should demand some kind of international protection!

The passionate hope of a weary world was that the World War should end in a just peace based on sound principles, and not on revenge, reparation and the pursuit of doubtful guarantees. The principles enunciated by President Wilson seemed to guarantee in the main the reorganization of the society of nations along sound lines. It is true that these principles were observed at Paris in certain instances, notably of those countries deemed friendly to the Entente Allies. They were flagrantly ignored in other instances, particularly in the case of Austria and of Hungary. They were not apparently considered in dealing with the eternal Eastern Question.

In the case of Mandates under the League of Nations, certain territories in Africa and in the Southern Pacific were absorbed completely; other territories, like Syria, were disguisedly annexed; and still others, like Mesopotamia and Palestine, were created as fictitious entities in alleged accordance with the wishes of the peoples concerned.

In the case of national minorities which for various reasons were included within other nations, as

in the case of diverse elements in Poland, Czecho-Slovakia, Rumania and Jugo-Slavia, attempts were made by means of special treaties to guarantee the political and religious equality of all. And in the case of the Ruthenes of the Carpathians, who were transferred to Czecho-Slovakia, a special guarantee was exacted of ultimate autonomy and self-government.

As has already been observed, no minorities, even if of considerable size, as in the case of the Southern Confederacy in 1861, may properly be permitted, under the plea of self-determination, to endanger larger national interests. For this reason the independence of "The Free City" of Fiume is entirely inadmissible, if it serves as a pawn in the rivalry of Italy and Jugo-Slavia, and results in serious harm to the great interests of the Slavic *hinterland*. But honest attempts should always be made by conceding local self-government in so generous a measure as to make the existence of alien elements within a nation tolerable. Furthermore in the use of ports and necessary avenues of commerce and intercourse the best interests of international society demand most liberal concessions.

This brings us to the economic aspect of the *right* of a nation to exist. It is not enough to concede the aspirations of oppressed peoples to a separate national existence: it is essential to make certain that they have the *means* to exist. This implies a fair amount of territory and of material resources. Few nations are as blessed as the United States in economic resources; none may be said to be inde-

pendent. All need each other, either in respect to the necessities of life or at least the things which make life endurable, if not enjoyable.

Unfortunately, there are nations like Italy which are at a most lamentable disadvantage. They have neither enough foodstuffs nor the iron and fuel required for national industries and the prosperity of their peoples. They are literally at the mercy of other nations in this respect. Their national independence and freedom of action are considerably impaired by this necessity of relying on other countries for raw products.

There are nations like Belgium, Germany, Austria, and Sweden that have no permanent assured markets for their surplus products. They have no vast colonies for this purpose, or for the utilization of surplus capital and man power. They find it practically impossible to penetrate the colonial markets of other more fortunate nations which manage either by regulations or by local vantages to maintain a distinct monopoly.

Then there are less favored nations such as Switzerland, Austria, Hungary and Czecho-Slovakia, which do not possess absolute freedom of access to the great ocean highways of commerce. Even Jugo-Slavia has a doubtful access to the Adriatic by way of Fiume; and Bulgaria has been cut off from direct communication with the Aegean.

Furthermore, by rearranging the boundaries of Central Europe the various railway systems have been seriously dislocated. For example, important junctions formerly a vital part of the splendid rail-

way system of Hungary are now outside its present boundary and subjected to various controls.

All these considerations point most eloquently to one simple conclusion; namely, that the existence of nations and consequently the peace of international society demands the highest degree of freedom of international intercourse. Tariff wars are truly *wars* when they cripple other nations and arouse hatred. Commercial restrictions do not make for peace.

It will be argued, of course, that no nation can allow itself to be injured by the competition of cheap labor; that self-protection will require at times stringent commercial restrictions. But this is to reduce the relations of international society to a level of mutual distrust and enmity, particularly when the interests and welfare of nations like Italy are imperilled. The regulation of international intercourse should never be arrogated by any single nation any more than the determination of the rights of aliens. This is a question of such fundamental concern to international society in general that it can be regulated justly only through common discussion and agreement.

We cannot ignore the fact that a common economic agreement would involve tremendous implications. It is not merely a question of the right to raw products, to markets, and of freedom of access to the great highways of commerce. It is a question involving international understandings concerning *production* and *distribution* if nations are not to engage in a mad and mutually destruc-

tive competition. It will be recalled how Europe for a time endeavored to regulate the production and distribution of sugar through international agreement and how this most interesting experiment was not permitted to work out successfully because of the attitude of Great Britain which adheres to the economic school of *laissez-faire*.

We cannot make light of these difficulties, particularly when we contemplate the extreme difficulty in obtaining agreements *within* a nation. We know, however, that under the pressure of necessity, during the recent war, the chief Allied nations at the suggestion of the United States were able to pool their economic interests most successfully. One is bound to ask why a similar understanding should not be possible in time of peace. If men can be made by the brutal logic of war to realize their mutual needs, why should they not be induced by the calm logic of peace to join together to promote the highest welfare of international society? May we not venture to hope that in spite of all the serious difficulties in the way of economic understandings between nations that the realization of this great need will some day prove sufficient to attain so noble an end? However we may feel about this question, we must not fail to admit that the peace and welfare of international society are most gravely menaced. It is not sufficient to recognize the right of a state to exist: we must make certain that every state has the adequate *means for existence*. This nationalistic problem of the right of

peoples to exist without undue dependence upon other nations may be said to be the basic problem of international society at the present moment.

From the right of a nation to exist in a *legal* sense, that is to say upon its formal admission into the society of nations, flow those other rights already enumerated; namely, of sovereignty, independence, equality, jurisdiction and intercourse.

By the idea of sovereignty is meant merely that the existence of a nation shall not be menaced by any attempt to control either its internal affairs or its external relations. The term sovereignty, unfortunately, gives rise invariably to considerable discussion. This is due primarily to the fact that, etymologically, sovereignty admits of no limitations except what the sophists would say proceeded from "the consent of the sovereign." But from the point of view of International Law, the right of sovereignty would appear to be in its simplest aspect nothing more than this guarantee against intrusion by one nation in the affairs of another.

The idea of independence is necessarily associated with that of sovereignty. Nations are not entirely independent. They are not free either to do as they please within their own territory with regard to the interests of aliens or to act without restraint with respect to the interests of other nations. Moreover, it is a truism to speak of the mutual interdependence of nations. All that is meant by the assertion of this right of independence is that each nation must be permitted to enjoy its own *separate* existence without restraint or intrusion on the part

of other nations. Independence, therefore, is merely sovereignty in its external aspect. Both terms are purely relative in their significance.

The assertion of the right of nations to equality is much more serious in its implications. Its origin is unmistakably in the Law of Nature through the false analogy between individuals and nations. Whatever its origin, however, the concept of equality is a perfectly logical deduction from the *right to exist*. No nation can be said to be guaranteed in its existence if it is constantly treated as an inferior, and is bullied by other nations. It is bound to insist on its right to equality of treatment. But this does not imply the assertion of a palpable fiction or the denial of the obvious inequalities of nations in political power, material resources and moral influence. There must necessarily be a certain primacy of powers at this stage of development in international society for the safeguarding of its interests. The claim to equality, even in a legal sense, is in opposition with the facts when one realizes that international agreements imposing rules of conduct between nations are not infrequently reached by the joint action and overwhelming influence of the greater powers. Smaller nations under these circumstances may well feel that they are not even equal before the law. Nevertheless, it may be asserted that the claim to the right of equality in International Law serves a useful purpose in holding forth the ultimate ideal of international society, as a goal of perfection towards which all nations should move; and to serve as a

warning to arrogant and presumptuous nations that they cannot be permitted to affront the susceptibilities of other nations, great or small. In other words, the claim to equality, as various writers of International Law have so termed it, may be considered in its larger aspect as "the claim to respect for political personality." It is the demand for international courtesy.

The right of a nation to exercise jurisdiction within its own territory is a logical consequence of the right to exist. It cannot permit the intrusions of other nations in questions of jurisdiction. Each nation in the pursuit of its national interests and ideals must have its own institutions and laws. To these institutions and laws resident aliens must show respect and obedience.

There is another side to the question, however, namely, that a nation has the right to follow with deep concern its nationals in the pursuit of their legitimate interests throughout the world. Every citizen is a living stone in the edifice of a nation. He is a vital part of the national patrimony. He is the *aerarium vivum*, as well as a moral asset. National legislation necessarily follows him in such matters as the income tax and liability to military services in times of national peril. Consular officials are everywhere present to remind him of his obligations as well as of his rights. Diplomatic representatives are there to see that his rights are fully respected in order that national prestige and vital national interests are thereby in no way injured or endangered.

Furthermore, in certain countries such as China, Persia and Turkey, where standards of justice are fundamentally different from European standards, foreigners carry with them their own laws. Their consuls exercise the right of national jurisdiction in certain crimes and torts. As nations draw nearer to each other and standardize their systems of law, this extraterritorial jurisdiction will naturally diminish or disappear.

There is an aspect of the problem, however, that is of considerable interest. It relates to that branch of international law known as "Conflict of Laws," dealing mainly with matters affecting the *personal status* of foreigners; e. g., marriage, divorce, guardianship, inheritance, etc. Under actual procedure a foreign court in many instances is called on to apply the *lex fori* of another country. If this law is unique and unfamiliar, the court is in a most difficult situation. It is compelled to ask for expert advice and information which are not always available. It is a fair question whether the interests of international justice might not best be served by conceding to properly trained consular officials powers of jurisdiction in questions affecting the "*personal status*" of foreigners—when the order and public morals of the territorial sovereign are not adversely affected. Might this not prove a liberal way to facilitate international intercourse and friendship?

Still another aspect of this question of jurisdiction is the right and the obligation of nations to assume jurisdiction over illegal acts and crimes

committed by their nationals abroad. This is the law, of course, with respect to members of crews on board American vessels wherever they may go. It is also the usage with respect to serious offenses against the State, as in acts of treason and counterfeiting committed outside national territory. But it ought also to be true of most crimes—particularly that of murder. It is subversive of good morals and of justice among men of all nations to permit any man insolently to remain unpunished for a crime known to all the community, no matter where that crime may have been committed. If extradition cannot be had, no crime should remain unpunished. The laws of the United States are most defective in these respects. As we have no Federal Common Law, the problem of legislation by forty-eight States unfortunately is most intricate and baffling.

Another difficulty of a Constitutional nature which the United States encounters in its responsibilities towards resident aliens is that the immediate protection of their rights under treaties and international law, rests with state and municipal authorities. When aliens suffer discriminations or positive harm in their interests or persons, the Federal Government is practically impotent. The treatment of Chinese and of Japanese in various localities, and the experience of Italians in New Orleans in 1891, demonstrates the necessity of legislation empowering the Federal Government to fulfill adequately all of its international responsibilities with respect to resident aliens.

It may be seen from the foregoing how complicated and how very important are the various problems of national jurisdiction over acts committed outside as well as within a nation. Coöperation between nations and mutual concessions may be required in many instances in order that national interests may properly be safeguarded and the great ends of international society attained.

REFERENCES

International Law: L. Oppenheim, Third Edition, Vol. I, Book II.

Institutes of the Law of Nations: James Lorimer, Vol. I, Book II.

International Law: Charles Cheney Hyde, Vol. I, p. 55-161.

International Law: W. E. Hall, Sixth Edition, Chapter II.

The Nature of the State: W. W. Willoughby, Chapter IX.

The Equality of States in International Law: E. D. Dickinson.

CHAPTER V

INTERNATIONAL INTERCOURSE

THE right of a nation to exist naturally implies the right of diplomatic intercourse. National interests of all kinds can be most effectively forwarded and protected through official contact. Nations are profoundly concerned about the interests of their citizens abroad. They are vitally interested in the development of trade, particularly in insuring a sufficient supply of food and of other raw materials. They are bound to seek markets for the sale of surplus products and to support all legitimate efforts in behalf of national prosperity and general welfare.

This interest is without limitation and includes the interchange of intellectual products, of artistic creations and spiritual ideals. In all these respects the nations follow with solicitous concern their citizens around the entire globe and insist on freedom of intercourse.

The rôle of the explorer in introducing the various scattered members of the human race to each other may have been primarily due to the love of adventure or to greed. The first fruits of exploration may not have been altogether beneficial either to the explorers or to the peoples of newly discovered lands. Nevertheless, this process of the

interpenetration of nations—the establishment and the development of intercourse—which is still going on, must prove beneficial in its ultimate results. In any event, this mingling of all mankind would seem to be in response to some imperious law, to some mysterious fundamental need of international society.

The function of the missionary in this great task of establishing contacts among nations has been variously appraised. To some, the missionary has been primarily the political agent of greedy nations intent on conquest. To others, the missionary has been a destructive influence laying waste the precious ethical and spiritual beliefs of other civilizations. To others, the missionary has been the agent for the dissemination of higher ideals—of lifting up the general average of civilization: he has been the means of mutually revealing men to each other.

Unquestionably, the missionary movement has been accompanied by regrettable and reprehensible methods at times. Its results have often seemed lamentable, or even tragic, in the case of very inferior races, where the missionary in his utter guilelessness has helped open up nations to the vices and evils of "Christian Civilization" without being able to protect his spiritual charges. With false zeal he has sometimes destroyed "Pagan" things of beauty, customs and artless manners of an Arcadian simplicity.

Whatever the defects of missionary enterprises may have been in the past, it would seem clear that

the missionary today is a powerful medium for the education of mankind, for the better understanding of peoples, and for that "perfection of the relations between nations" which may truly be said to be the high mission of International Law. The missionary has become a symbol of international altruism. In recent times through medical stations, schools, food relief and various philanthropic agencies the missionary has been the means of carrying life and health and moral encouragement to many millions of suffering humanity. In desperately dark places throughout the world the missionary's lamp has been the only beacon of hope to simple folk without knowledge of, or faith in, the goodness of other men.

These are substantial accomplishments. These are reasons why nations are bound to follow with the keenest interest and sympathy missionary activities the world over. This is why the missionary is entitled to a large measure of diplomatic support in his great work of strengthening the brotherhood of nations.

✓ Commerce has been well said to have been the cradle of Diplomacy. The early relations of peoples through explorers and missionaries did not necessarily entail diplomatic intercourse. Trade relations, however, by reason of their complexity did entail a certain amount of intercourse. Wherever the Phoenicians, the Rhodians and other adventurous traders such as the English and the Dutch of later times went, there also went the protection of their own laws and institutions. The desire of

men to exchange goods to mutual advantage compelled great concessions. Traders were permitted in very early times to maintain their exclusive settlements under their own political and religious administration in ancient Byzantium, in Russia and in Egypt, and later on in the Orient as well as in the Levant. These settlements were known as "Factories" and the head "Factor" exercised almost sovereign powers. He was the progenitor of consuls and diplomatic agents.

In this early period of commercial relationships men began to sense the need of rules and regulations of intercourse. Maritime law had a very early development as the Rhodian laws, the Amalfitan tables, the Laws of Oleron, of Wisby, and of the Hanseatic League amply testify.

It is important that we come to view the trader not as a selfish adventurer but as a valuable international agent, deserving of national sympathy and support, whether he be a poor American fisherman shipwrecked on a Pacific island, a financier carrying capital to needy peoples, or an engineer developing a great industrial enterprise far from his native land. He is primarily the man who ensures a sufficient supply of food-stuffs and of other materials essential to national well-being. He carries surplus goods which other nations may require. He brings back valuable supplies of all kinds that minister to the needs and the happiness of his own nation. As a financier or an engineer he helps less fortunate people to develop their own resources and to make them more accessible to other

nations. As a shipping merchant he maintains immediate and vital contact with remote corners of the earth. As a seaman he is plying an honorable profession worthy of all admiration and protection. His ships are the shuttles that weave the very texture of international relationships.

There are those, of course, who sneer at the "Bible and Rum" as advance political agents for the conquest and annexation of uncivilized people. The term "Dollar Diplomacy" has also had its unpleasant connotation. People are suspicious of any connection between business and Diplomacy, particularly when so-called "high finance" is involved.

To deny that there have been gross injustices through the diplomatic exploitation of trade would be futile. There have been ugly blots on the diplomatic record of many nations. There can hardly be any extenuation of these abuses. There are concession hunters and soldiers of fortune everywhere. There are men whose motto is: "a good claim is better than a bad business." There are always insidious influences at work in high places to secure diplomatic support of questionable claims against weaker nations. Diplomacy too often is tempted to rely on the support of the dollar for unworthy nationalistic ends—as in the case of international "loan sharks,"—instead of supporting the dollar for worthy ends in the interest of international society as a whole. It would not seem open to argument, however, that commercial intercourse is an absolute necessity and that it must eventually subserve the highest interests of international so-

ciety. Nations cannot be indifferent to the fortunes of their citizens as necessary agents in this great undertaking.

Unfortunately, human nature is still so defective, so retarded in evolution that out of this intimate intercourse of nations proceed misunderstandings, ugly disputes, fierce rivalries and hatreds. The desire to maintain an exclusive control of great deposits of coal, of oil, of iron, of nitrates, of supplies of cotton, of food-stuffs, and of other raw materials has led nations into bitter antagonisms and war. Trade restrictions and vast monopolies have greatly embittered their relations. Countries like Italy which are deprived of essential natural resources cannot but view with grave concern a society of nations on so unjust a basis.

We must not ignore the fact that diplomatic intercourse is rendered infinitely more difficult by these fundamental commercial problems. The concern that nations feel for the legitimate enterprise of their citizens requires the most careful investigation of complaints and the utmost vigilance in order to guard against unjust discrimination. The task of Diplomacy is one calling for high skill, courage and patience. It sometimes means helping men out of their own mistakes to prevent further complications. It means laborious correspondence and wearisome negotiations. It means recrimination and unjust aspersions. Modern Diplomacy is infinitely more intricate and exacting than is generally appreciated. Its most valuable results are attained silently and without publicity. But this is a topic

requiring more comprehensive consideration in a separate chapter. The point we are now stressing is that the great increase in agencies of international trade and communication has vastly complicated the task of Diplomacy. The welding together of the heterogeneous fragments of international society is a herculean task. The process is highly dangerous. To know other men, unfortunately, it is not always to admire, as the idealists are inclined to assert. The realization of fundamental differences in ways of thought, in standards of justice and in methods of business, does not always conduce to mutual tolerance. Too often the results are misunderstandings, mutual antagonisms and the fatal clash of rival interests. To adjust these interests is not always within the power of Diplomacy.

Fortunately, the burden of international relationships does not fall exclusively on the diplomats. Many varied agencies are at work to facilitate this task. The League of Nations is the most conspicuous and the most recent organ created for this purpose. It is primarily political in character and requires special consideration in a separate chapter.

By a process of natural evolution, international society is developing many non-political agencies to minister to its vast needs. Some of these have taken the form of public international unions, such as The Telegraphic Union, the Universal Postal Union, the Metric Union, The International Opium Commission, etc. Others, under the inspiration of private initiative, have remained under private control, such as The Red Cross, The Inter-Parliament-

ary Union, and other organizations of a scientific, religious, literary, or economic nature. It is estimated that there are over four hundred international associations of various kinds. About sixty public international unions are grouped together with the League of Nations as a kind of central clearing house in Geneva. Over fifty international conferences of various kinds were held in Switzerland in 1921. Over four hundred international conferences were held in the year 1911, according to the estimate of Senator LaFontaine of Belgium.

These facts must challenge the attention and speak encouragement to all who have at heart the interests of international society. The existence of so many practical agencies to facilitate intercourse and of so many associations to promote better understanding between nations is most significant and inspiring. Even though Diplomacy may break down at times, these splendid agencies, like the subtle forces of nature, are always at work to nourish the very roots of international life.

In considering later on the work of the League of Nations it will be necessary to speak of the great significance of its special departments dealing with the health, the morals and the financial and economic interests of Europe. We can now only take note of certain of the unions or associations above referred to. First of all, the Pan-American Union, though political, exists primarily to facilitate all the varied intercourse of its members. Through its initiative and influence, important conferences or commissions are organized, and legislation eventu-

ally secured for the better regulation of Pan-American relations. Its great function and activities are little understood and can hardly be estimated at their full value. Its potentialities as a possible League or Association of Nations are tremendous. Such an evolution might well conform to, and coöperate with, a larger association such as the League of Nations organized along somewhat broader lines.

Then there is the Institute of International Law which meets annually to consider rules and regulations for the better ordering of the affairs of nations. This Institute which has been in existence since 1873 is composed of the leading international law publicists throughout the world. Its deliberations are divested of a political character and tend to a dispassionate understanding of international interests. Out of these deliberations result recommendations which often are of great assistance to nations in regulating their mutual relations. It is an agency which has a noble function in the evolution of the society of nations. And there are many such organizations of friends of mankind which cut straight across national frontiers and help cement peoples together.

The most extraordinary development of this sort in modern times is that of the International Labor Organization having its separate existence alongside the League of Nations in Geneva. This organization is a natural evolution after years of conferences of associations interested in the labor movement. It has now achieved a position of in-

fluence and advantage not generally perceived. It held two annual conferences in 1920 and 1921 in Washington and Geneva where agreements were reached on such vital matters as the limitation of hours and conditions of labor in manufacturing industries throughout the world. It has no power as a supreme international parliament, but it may frame treaties which must either be formally ratified or rejected by the nations belonging to the Labor Organization. Furthermore, the delegates represent the diverse elements of capital, labor and the general public of their respective nations. What is of momentous significance is that they vote not as national units but as free, independent individuals! Here is a most remarkable approach to internationalism! Here is a forum dealing with a fundamental problem of international society without reference to national boundaries. And the International Labor Office in Geneva is working night and day in defiance of all "eight hour laws" to watch vigilantly that the various nations fulfill their obligations towards the working men of the world. There can be no doubt that in the organization of international society Labor has already secured a strategic position. How it will use that power, whether in full coöperation with Diplomacy or in antagonism to the ordinary organs of international intercourse, is a subject for speculation and apprehension.

It would be profitable to dwell on the work of many other organizations tending to unify and consolidate the varied interests of men. Among such

organizations stands the Papacy as an international institution of tremendous power and influence. There are many relief associations and other enterprises upon a broad philanthropic basis. Suffice it for our immediate purpose to emphasize the heartening fact that in spite of inevitable differences and rivalries among nations, hundreds of splendid agencies exist whose influence is of great cumulative value in helping to make men realize their common brotherhood. To strengthen the work of these existing agencies rather than to create more complicated organizations would appear to be the most natural and practical method in the long run of accelerating the evolution of international society.

REFERENCES

International Law: L. Oppenheim, Third Edition, Vol. I, p. 620-651.

Institutes of the Law of Nations: James Lorimer, Vol. I, Book III.

The New World Order: F. C. Hicks, p. 201-292.

The League of Nations Starts: An Outline by its Organizers, Chapter XIII.

The International Protection of Labor: B. E. Lowe.

Public International Unions: Paul S. Reinsch.

International Finance: Hartley Withers.

CHAPTER VI

DIPLOMACY

THE diplomat and the politician have fallen into unjust disrepute. Both professions have unfortunately become associated in the public mind with duplicity and chicanery. Both, however, are honorable pursuits demanding the highest degree of ability and character.

Popular distrust of late has attributed to Diplomacy a general responsibility for the World War. There is a widespread belief that this greatest of catastrophes was brought about by the intrigues of scheming and conscienceless diplomats. "Secret diplomacy" has been bitterly attacked; and "open diplomacy" has been demanded by an indignant Democracy.

Just what is meant by *open diplomacy* is not quite clear. If it implies that all negotiations between nations should take place in the market place; that the morning newspapers should contain full accounts of every stage of critical discussion; then diplomacy becomes so difficult as to be either impossible or dangerous. Friendly, calm discussion of vital controversies between nations is not to be had in the midst of popular clamor and passion. No business enterprise nor educational institution, nor even a great philanthropy, could ever be

successfully managed on the basis of *open* diplomacy. No matter how praiseworthy one's motives may be, if one wants to accomplish his purpose there is always necessity for a decent reserve, a wise reticence. ||

The demand for "the democratic control of foreign policy" would seem to imply a necessary and proper distinction between *diplomacy* and *policy*. If Democracy is not competent to carry on delicate diplomatic negotiations in the market place, it would at least seem to have the right to determine the *direction* of foreign policy. And this, of course, is what normally happens in general elections in certain countries like England or in parliamentary votes of confidence in France. The people, directly, or through their representatives, are supposed to control foreign policy. They have a right to know the exact nature of the engagements to which their nation is pledged. They must pledge no more than they are prepared intelligently and honourably to fulfill. ||

It may be generally asserted that Democracy is conscious of its own incompetency for diplomatic negotiations, and that even in matters of policy it is inclined to defer to the leadership of its chosen representatives. And this is inevitable when it is realized that only for a few placed in high positions is it possible to know all of the important factors affecting a given international situation or controversy. Partial information is misinformation: it is worse than no information. And when it happens that the very preservation of peace demands the

utmost circumspection and calm, Democracy must leave to its chosen leaders a large amount of discretion and freedom of action.

Nations cannot discuss their interests through committees: they require single points of contact through responsible heads of state. There should be no confusion of counsel or of tongues when nations speak to each other; it must be through a single voice. Negotiation and understanding would otherwise be impossible.

It is clear, therefore, that the executive control and management of foreign affairs, even in matters of large policy, must be the only safe and efficient manner in which Democracy can function. If the executive prove untrustworthy and lead the state into dubious or dangerous paths, a whole people may suffer disaster and drag other nations down with them. Democracy is bound therefore to assume a heavy responsibility for its representatives and to exercise as direct a measure of accountability as is compatible with representative government.

There is no denying the fact that under the Constitution, the President of the United States has extreme and even dangerous powers in the conduct of foreign affairs. As supreme commander of diplomats and consuls as well as of the army and navy, he can lead the nation up to a crisis where there can be slight choice of decision. Congress may be placed in the stultifying position of declaring war after a state of war already exists. The President may land soldiers on foreign shores as

he has repeatedly done in China, Haiti, Santo Domingo, Nicaragua, and elsewhere without asking the authorization of anyone. His responsibility to the American people, however, is as great as his power. He is bound to reckon with public opinion expressed either through his advisors in the Cabinet, through the Senate, or through a vigilant Press. Representative Democracy has its perils as well as Direct Government, but in the conduct of foreign affairs there would seem to be no safer rule than to place responsibility squarely on the Executive. In any event, it is only through responsible executives that nations can effectively negotiate to secure protection for their mutual interests.

The protection of national interests is guaranteed through treaties of amity, commerce, and special conventions regarding naturalization, extradition, protection of industrial property and other subjects. The negotiation of these agreements calls for the highest degree of technical knowledge and diplomatic skill. Discussion is often most complicated and prolonged. Though diplomatic representatives have to be relied on as means of communication, the main control of the negotiations remains in the hands of the respective foreign offices. It is there that the most comprehensive as well as the most technical understanding of the national interests under discussion is to be found.

Negotiations of this nature are sometimes carried on in general conferences or congresses, as at Washington and Genoa, or at the Hague in 1899 and 1907. Treaties and conventions reached by

general agreement have naturally a greater value. As conferences of this sort unfortunately involve the consideration of intricate political problems, general agreements are more difficult to obtain. In fact such gatherings are likely to stir up nationalistic rivalries and susceptibilities, and endanger peace. They have to be resorted to only with the greatest tact and wisdom. The normal method is for nations which can understand each other and which are conscious of mutual interests, to negotiate treaties and conventions to protect their affairs. These agreements may become the models and guides to more general understandings among nations as in the case of treaties of naturalization and extradition. The law of nations has had its slow development in this kind of diplomatic negotiation rather than in conferences and attempts at international legislation. Usage has grown into recognized custom, and custom into treaty between two or more nations. General treaties do not as a rule originate law but rather give it formal sanction as in the case of international conventions on the subject of Maritime Law.

Though the negotiation of treaties provides for a general understanding and protection of national interests, there remain many specific instances of misunderstandings and grievances in individual cases. The diplomat finds a great deal of his time taken up with the complaints of his fellow countrymen that their rights either under treaty or under international law are not respected. The investigation of these complaints requires the utmost care and patience. *Ex parte* statements, no matter how

convincing, must be corroborated by reliable affidavits if possible. In not a few cases these grievances are found to be without adequate justification or may even disclose delinquency on the part of complaints. To refuse to present a complaint in such instances is often to incur great annoyance and trouble, particularly when the complainant may have strong political backing in his own country.

When complaints are justified the diplomat may often be able to secure prompt redress through what are euphemistically termed "unofficial good offices." When no official record of the case is made, a courteous word in the right quarter may effectively put a prompt end to what might become a troublesome controversy if allowed to drag on.

In the case of the formal presentation of complaints by written record—diplomats are called on to use the utmost diligence and tact. In these days of easy communications the diplomat no longer exercises the immense power of discretion that Stratford de Redcliffe Canning enjoyed at Constantinople. On questions of law, precedents and policy, the home government must be consulted in most instances. But in the matter of the form and the most effective manner of presenting a complaint, the diplomat by reason of his knowledge of local conditions must be allowed a very large degree of freedom. It would be entirely unwise as well as needless for his home government to attempt to hamper him with detailed instructions.

This responsibility is much greater than is generally understood. The diplomat has so comprehen-

sive and exalted a function that he must ever maintain a proper sense of proportion. He cannot afford to destroy his general influence by arousing bad feeling over a single complaint. There are citizens who seem to hold that a diplomat must be weak or recreant if he is not constantly launching ultimatums. They appear to look with suspicion on the diplomatic representative who manages to maintain unfailing relations of cordiality with the government to which he is accredited. John Adams once remarked: "No man will ever be pleasing at a court in general who is not depraved in his morals or warped from your interests."

✓ How to accomplish one's special ends in presenting disagreeable complaints without loss of influence and good will is the supreme test of a diplomat. It is not always possible, of course; but it is his constant aim and duty.

A diplomat has a double function; namely, that of acting as interpreter of the country to which he is accredited, and of his own country. To understand intelligently and sympathetically a country requires the most unrelenting study. It exacts a close knowledge of its history, of its institutions, of its politics, of its economic conditions, of its intellectual and social life. It requires personal contact with local conditions through travel and observation. It requires friendly social relations with representative officials and citizens of all classes. It means that a diplomat should endeavor to enter sympathetically into the joys and the sorrows of a people. He must know what pleases,

amuses, annoys and saddens them. He must so enter into their life that he may truly become their faithful interpreter to his own government and to his own countrymen. In this respect his office is a sacred one and has much to do with the binding together of international society on the basis of mutual understanding.

The other function of the diplomat, namely that of being the faithful interpreter of his own country is a solemn responsibility. He is not merely a diplomatic agent for a specific purpose: an attorney to attend to litigation; he is the representative of a whole people; he is their interpreter. The manner in which he speaks or acts for his countrymen will have profound results on the feelings of friendship and respect between the two nations. He is under the most critical observation and subject to severe criticism. It is not easy to fulfill so high a rôle.

It is this representative function which should govern the selection of diplomats. Much has been said in favor of a classified diplomatic service. It has been argued that diplomats are on outpost duty, that they should be specially trained for such work with permanence of tenure and right of retirement on a pension as in the case of soldiers and sailors. Other nations, such as Great Britain and France,—in fact nearly all countries—have organized their foreign service on a classified basis as in the case of the army and the navy. Their diplomatic representatives after years of service all over the world are believed to have acquired a rich knowledge of international affairs and of skill in the “art of

negotiation." They have learned languages; they have studied history and peoples: they would seem admirably equipped to render invaluable service to their country.

This argument certainly has great force but there is another side to the question. First of all, the technical aspect. A thorough knowledge of diplomatic forms and usages is of very great value, to be sure. Years of experience in various countries give a *finesse* of manners and of method not easily to be imitated. But in diplomacy, as in other fields of human activity, one may easily become so concerned with forms as to miss the vital things. One can become so much a creature of routine, so complacent in certainty of tenure of office as to lose the sense of initiative and a live interest in the larger aspects of international society. He becomes what a member of the British diplomatic service once characterized to the writer as "dead timber." They cease to be *live factors* in the vital processes of bringing nations together. In this sense, therefore, professional diplomats have merited in large measure the distrust of the general public. They may not have merited the charge of intrigue and duplicity with the foul purpose of setting nations at discord. That would credit them with greater influence than they possess. They have rather been of a negative influence—not of much use in their larger functions of active interpreters between nations. Too often they have been ornamental and indifferent when vast interests were gravely affected. They have seemed cynical or impotent when great

forces were at work threatening the very foundation of international society. It is not strange therefore that since the upheaval of the World War there has been a general demand for new methods in diplomacy—a desire to get away from forms and ceremonies—a hope for fresh vital influences in international relations.

This fresh vital influence cannot be obtained through a fixed classified diplomatic service. In the great surge and the rapid changes going on in international relations—men are needed who are keenly alert to all the pulsations of the life of their own nation as well as of other nations. They must be alive and sensitive themselves to the *spirit* of the age. In other words, the prime requisite in a diplomatic representative is that he should be truly *representative*. Peoples in their efforts to understand each other must be sure that their diplomatic representatives spring actually from the very center of national life. A diplomat must be able at a given minute to represent in his own person and outlook the spirit and sentiments of his own people.

This means of course that a nation should always be free to select the right man for the right place at the right moment without much regard to his skill in forms and ceremonies. In fact every nation, whether or not it have a classified diplomatic service, reserves to itself this privilege. England takes a Lord Bryce just as the United States takes a Page or a Herrick from public or private life. Promotion by merit should never be ignored, but the main requirement should be, not so much diplomatic skill,

as *representative capacity*. American experience has amply demonstrated from Franklin to Adams, Lowell, Reid, Choate, Porter, Page, van Dyke and many others, that diplomatic skill is a quality necessarily associated with successful men of affairs in various professions and enterprises. Technical knowledge of forms and usages is always available to such representatives, and their own native ability and training will soon supply initial deficiencies in this respect. Only a vigorous live interest in the daily life of their own land can supply that understanding of national interests, that sympathy with generous aims, that enthusiasm and power of initiative so lacking in "dead timber."

When we contemplate the magnitude and the complexity of the affairs of international society—the difficulty of defining and of conciliating conflicting national interests; the multitude of rivalries and of controversies between adventurous men of every nation in their restless activity throughout the world; we must appreciate more clearly the enormous task and solemn responsibilities of Diplomacy. Democracy has good reason to concern itself with the problem of international intercourse. It should, however, realize its own limitations in diplomatic negotiation. It should be more scrupulous in its choice of national representatives and spokesmen in foreign affairs. It should repose great power as well as great responsibility on those entrusted with this sacred duty of protecting national interests and of seeking in a spirit of enlightened

self-interest the larger interests of the great society of nations.

REFERENCES

International Law: L. Oppenheim, Third Edition, Vol. I, p. 527-606.

International Law: W. E. Hall, Sixth Edition, Chapter IX.

International Realities: P. M. Brown, Chapter IX.

The Practice of Diplomacy: John W. Foster.

Diplomatic Practice: Rt. Hon. Sir Ernest Satow.

Diplomacy and the Study of International Relations: D. P. Heatley.

Diplomacy, Old and New: George Young.

Principles of American Diplomacy: J. B. Moore.

CHAPTER VII

INTERNATIONAL DISPUTES

DIPLOMACY works best when it works silently. As John Hay once observed, "One may not boast of one's successes either in love or in Diplomacy." The world generally hears only of the so-called failures of Diplomacy: it rarely hears of its triumphs. The records of foreign offices are full of such triumphs; and there are many more of which no record is preserved except in the private memoirs of the statesmen concerned.

International Law and precedent are daily invoked and duly respected in the normal operations of Diplomacy. Questions arise, however, concerning which there is an honest difference of opinion; where national susceptibilities are affected; and where, even with the best of good will, a solution is not easily attained. If these questions are permitted to become the subject of prolonged discussion, or are allowed to accumulate, the relations of the two countries concerned are likely to become embittered and strained. It is then that Diplomacy turns gladly to Arbitration as a welcome help-mate.

Arbitration has seemed to many people to be a general panacea for all international ills: it is a "blessed word" to be invoked in any emergency.

Many believe that it is a safe substitute for and an effective preventative of war.

As a matter of fact Arbitration has its decided limitations: it is not suitable for all kinds of disputes. It is primarily a friendly means of adjusting differences on the basis of a compromise. It is not essentially a judicial procedure. This is due to several reasons.

The parties to Arbitration determine the exact competency of the tribunal: they determine the limits within which the arbitrators are free to form their judgment. As in the Geneva Arbitration between Great Britain and the United States, the parties may even agree on the rules of law which shall be applied by the tribunal.

These are restrictions which no real court of justice would tolerate. Parties to a litigation may not at their own sweet will prescribe the organization of a court or the manner in which it may judge the controversy.

Secondly, an arbitral tribunal in its desire to find a solution that will be respected by both parties, is tempted to seek a decision of the nature of a diplomatic compromise. Examples of this are the North-east Atlantic Fisheries Arbitration between Great Britain and the United States, and the Casa Blanca award between France and Germany. The first virtually decided that while Great Britain retained its sovereignty over the coasts of Newfoundland, it lost the right to exercise sovereignty! In the second controversy it was held that while both parties were at fault neither intended any harm!

A true court of justice naturally has little concern whether its decision is to be respected and enforced. It decides according to the law and often imposes a heavy punishment. It would forfeit all respect and have but slight value if it did anything else. It cannot meddle with Diplomacy.

Thirdly, many of the controversies between nations are not strictly "justiciable,"—that is to say—susceptible of judicial decision by the application of principles of law. There are disputes where no rule has been generally accepted that may be applied by a court, or which are so political in character as to forbid judicial settlement.

Arbitration under some circumstances is a desirable method of adjusting disputes of this character. Where no rule of law is invoked there is every opportunity for a friendly adjustment along the lines of an equitable compromise. When it becomes possible to find a safe form of submission of such a dispute in the certainty that a solution acceptable to both parties is within reach, Diplomacy is quite ready to welcome Arbitration. But where a controversy contains political elements of great significance, as for example, the interpretation of a treaty of alliance, Diplomacy cannot trust this method of settlement. There are large questions of policy affecting vital national interests which Diplomacy alone can adjust. There have been numerous instances of this since the World War, notably in the meetings of British and French statesmen and the Washington and Genoa Conferences.

Unfortunately, the usual method employed by

Diplomacy is the crude, unelevating process of bargaining and "log rolling." A *quid pro quo* is generally exacted. Nations do not quixotically make sacrifices of great nationalistic interests: they seek arrangements which shall be mutually beneficial.

When Diplomacy is unable to settle political controversies of this nature, the alternative may be war, if war should seem the most effective way of safeguarding national interests. Modern war, fortunately, has become so terrible that it is not likely to be resorted to as casually as in the past. But it must be remembered that until international society provides a sure and an adequate remedy for wrongs between nations war is inevitably the *ultima ratio*.

Mediation is often regarded as one of the ways of procuring a peaceful adjustment of controversies. When third parties intervene,—as they not infrequently do,—it is not so much to suggest a solution as to council moderation and facilitate discussion. Mediation is essentially diplomatic and has to be employed with consummate skill. It cannot be regarded as of very great value in a crisis where nations believe that vital interests are at stake.

A most promising instrumentality for the purpose of averting war when passions are at white heat, is that of Commissions of Inquiry, as provided for in the Hague Convention for the Pacific Settlement of International Disputes and in the so-called "cooling off" treaties negotiated by Secretary of State Bryan. The function of such commissions is simply to provide a ready means of ascertaining the facts in a controversy and to give time to the

nations concerned to moderate somewhat in their demands and feelings. This method, it will be recalled, was most effectively employed in 1904 at the time of the lamentable incident when the Russian fleet in a moment of inexcusable alarm destroyed a number of small British fishing vessels in the North Sea. This method—it must be remembered—is primarily for the purpose of ascertaining facts: it is not intended to settle the controversy itself. In crises, however, where neither party really desires war it should prove a satisfactory solution. In crises where either or both of the parties may regard war as the only effective means of safeguarding national interests it is not to be expected that an investigation of facts will be sufficient to ward off war. Under such circumstances it may be questioned whether a nation will always be ready to delay an aggression pending an investigation of the facts. Commissions of Inquiry, however, should generally serve a useful purpose.

A hopeful development in recent years has been the tendency towards *conciliation*, that is to say, to round-table conferences for the discussion of matters of general or specific interest as in the instances of the conferences at Washington and Genoa. But these methods for conciliation depend on diplomatic initiative. There are no existing understandings of a permanent nature other than through the League of Nations whereby methods of conciliation may be automatically set in motion at a time of international crisis. The suggestion has been brought forward in the Assembly of the League of

Nations for the creation of a special "Council of Conciliation" for the purpose of facilitating the friendly discussion of all questions affecting the peace and welfare of international society. Such a body should have a very loose form of organization with no power of final decision or of coercion. Its functions should be purely diplomatic in recognition of the fundamental principle that peace among nations is by mutual consent and not through coercion.

The word conciliation is truly the key word in this vast problem of international relations. Individuals may be coerced morally or otherwise into a recognition of their own best interests. This is not, however, a safe method among nations. Millions of people acting as a national organism cannot be so convinced. Their active consent is necessary in the adoption of rules of International Law, and in the achievement of permanent solutions for the peace of the world. Any step towards conciliation among nations, whether through the League or otherwise, is to be welcomed; but it must be clearly realized that conciliation is a matter of *spirit*: not one of method and form.

Perhaps the most hopeful progress in the cause of orderly relations between nations has been the creation of the Permanent Court of International Justice at the Hague. Organized society implies an organized court, and a court presupposes law. These three factors: organization, courts, and law, are the essential factors of all political society. Even rudimentary society, whether social or political, has its rules and organization, if not a kind of

primitive judicial procedure. It must be recognized that international society in its present state of evolution has nothing comparable to a political organization other than the League of Nations. This, as will be seen later on, is hardly to be considered as filling the place of a genuine political organization. As regards law, we have noted that inasmuch as International Law finds its origin and its strength in general usage and consent, its development is necessarily "slow but sure." There are large fields of human interests where the Law of Nations yet remains to be formulated. It is possible—as has been suggested—that this process may be accelerated through friendly conferences and by the works of jurists. There should be no illusion, however, concerning the lamentable fact that for many international controversies there exists no adequate body of generally accepted principles.

In view of these facts we must be careful not to attach an exaggerated importance to the Permanent Court of International Justice. It has great possibilities but it starts with certain handicaps.

There is great need of a permanent court to give coherency and definite form to the principles of law involved in the decisions of international disputes. A panel of judges sitting constantly and not subject to the whims and prejudices of the parties to a controversy has a far better opportunity to build up a genuine system of law than in isolated arbitrations, where the judges are specially chosen and limited in large measure by the terms of the arbitral compromise.

With a relative degree of freedom of judicial competency the Permanent Court of International Justice is in a position to render a series of decisions which may serve as solid precedents and help crystallize International Law into a more formal system entitled to general respect.

The main requisite in law has been well said to be its "Gültigkeit"—its power to prevail. And its power to prevail must rest largely on its *certainty*. It must be clearly formulated and proclaimed in order to receive general assent and respect. This great work should be facilitated in large measure by the decisions of the Permanent Court of International Justice. This is not to imply unrestricted powers of judicial legislation. Such arrogant power over the destinies of nations would be justly resented and would destroy the value of the court. The Law of Nations—it must be insistently reiterated—cannot be imposed: it must grow by usage and common consent. But it is right here that the Court can tactfully render immense service. Jurists who respect the best of the Grotian traditions may, by their erudition and good sense, find in the practice of nations, in their respective legal systems, and in their social and political institutions, very much on which to build a solid legal superstructure. For this special task the Permanent Court of International Justice is admirably adapted by the action of the League of Nations in choosing judges of exceptional ability and prestige representing the great legal systems and chief racial divisions of the world. These jurists have in their hands a mo-

mentous opportunity for the moulding and the strengthening of the Law of Nations.

We have noticed that there are various categories of international disputes: those where political considerations out-weigh the legal; those where the legal out-weigh the political considerations; and those where no particular legal problem is involved. Different settlements either by Diplomacy, Arbitration or Judicial Decision, are required according to the nature of the specific dispute. This should logically mean that not every dispute is to be referred to the Permanent Court of Justice, but only such disputes as are strictly justiciable in character. Most unfortunately, however, Article 36 of the Statute of the Permanent Court of International Justice provides that "the jurisdiction of the court comprises all cases which the parties refer to it and all matters specially provided for in treaties and conventions in force."

Several nations have signed a special Protocol providing for the compulsory jurisdiction of the Court, in which an attempt was made to define more clearly what constitutes legal disputes. "The interpretation of a treaty, any question of International Law: the existence of any fact which if established would constitute a breach of an international obligation" can hardly be said, however, to furnish an explicit or exclusive classification.

The result of all this is that the new Court may be called on to unravel political controversies involving little or no law, or to adjust a diplomatic, political question of a legal nature on the basis of a

compromise. This could not fail, of course, to divert the Court from its true task, namely the judicial decision of justiciable disputes on a strictly legal basis. It would seriously detract from its prestige and might end in its utter discredit. It is to be hoped, however, that some method may be devised by which the Court will only assume jurisdiction in *justiciable* disputes, while leaving other controversies either to the Permanent Court of Arbitration or to some other method of conciliatory adjustment.

There are those who hold that the Permanent Court of Arbitration has proved entirely adequate as a judicial tribunal, and who view with alarm its possible eclipse by the new Court of International Justice. On the contrary, it would seem clear that there is every possible reason for the existence of both tribunals to assign the proper jurisdiction in the varied cases demanding adjudication. They are not mutually antagonistic institutions, but should most effectively supplement each other.

This is quite evident when it is realized that many of the controversies arising from the interpretation of the recent treaties of peace may involve delicate political considerations of which the Court of Justice should discreetly avoid all cognizance but which the Court of Arbitration might readily consider.

The whole tendency in the settlement of international disputes is toward a multiplication of the agencies for their adjustment. It would be absurd to try to pile everything upon one court. There must eventually exist special courts for technical matters

such as are involved in pecuniary claims and in "conflict of laws." These are intricate problems sometimes requiring adjudication over a long period of years as in the case of the Special Claims Commission organized to dispose of claims between Great Britain and the United States and between France and the United States. We must therefore hope for a constant increase in international agencies for the peaceful settlement of disputes. The final test of such agencies must be, not their form, but how efficiently they function.

There remains to be considered the troublesome question of the classification of international disputes. It is not enough to speak of political and justiciable questions: it is necessary to define just what matters may be properly classified under these respective headings. This is an urgent, practical problem, in view of the fact that many nations are quite unwilling and, in fact, are unable to agree to the compulsory jurisdiction of the Court of Justice unless there is a clear understanding concerning the exact nature of the controversies to be submitted. As long as there is no such understanding, nations are compelled to safeguard their interests by vague and deadening reservations withdrawing from arbitration "questions of honor, independence, vital interests, etc." Certain questions, as we have seen, are not suitable for judicial decision, while others are so political in character as to concern even the existence of a state. If a court presupposes law it also presupposes a clear definition of its own juris-

diction. And this problem is one of the most difficult that nations have to solve.

The term "justiciable" was first employed in the Arbitration Treaties negotiated during the Taft Administration with Great Britain and France. An unsuccessful attempt was made to clarify its meaning by adding "differences which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law and equity." This can only serve to make the whole question more vague, as equity may mean anything that judges deem just. No clear norm is thereby established. The definition of *justiciable* furnished by the Century Dictionary reads; "Proper to be brought before a Court of Justice, or to be judicially disposed of." This is a fairly satisfactory general definition until we try to classify our disputes. We then find that almost every international dispute has what Wehberg well characterizes as a "legal core," though it may be enmeshed in momentous political problems. For example, a legal question concerning railway transportation under an international agreement may bristle with diplomatic features at a moment of great tension when railway cars are required for the mobilization of troops.

So inextricably entangled are these political and judicial elements that it is often impossible to attain any satisfactory delimitation. Furthermore, if we should attempt in an objective scientific manner to classify all questions "proper to be brought before a court of justice" or "to be judicially disposed of" irrespective of their political content, we would vir-

tually have a code of international law indicating every right of action and remedy. Such a code obviously would be incomplete, but codification would necessarily be "progressive" *pari passu* with the evolution of international law through general consent.

If we approach this problem from another angle, namely, by attempting to classify the exceptional controversies where the political element is so predominant as effectually to preclude judicial settlement, we encounter most serious difficulties. "Questions of honor, independence, and vital interests" are clearly too vague to admit of precise definition.

The Institute of International Law sought to solve this problem at its meeting in Grenoble in September 1922, by affirming that: "All controversies, whatever their nature or origin, as a general rule . . . are susceptible of a judicial or arbitral settlement;" and by providing that "whenever in the opinion of the defendant nation the controversy is not susceptible of a judicial settlement, the preliminary question of deciding whether it is justiciable is to be submitted to the consideration of the Permanent Court of International Justice." It is furthermore provided that the Court may assume jurisdiction in the matter if three fourths of its members hold the controversy to be justiciable in character. Otherwise the controversy is to be referred back to the parties concerned. It is unfortunate that the Institute was not able to suggest any criteria to aid the court in determining whether a

given international dispute is justiciable or not. This proposal, however, may serve as a basis for another forward step in the desired direction of the peaceful settlement of all controversies among nations. It is possible, also, that some method may be devised whereby a given dispute might be referred to the most appropriate form of settlement, whether by conciliatory measures, by arbitration, or by actual judicial decision.

To state this problem of the classification of international disputes is to indicate something of the difficulties in safeguarding the varied, complex interests of international society. Too much should not be expected from any single method of adjusting controversies. But hope must be maintained that with good sense and good will the field of irreconcilable disputes will gradually be restricted to narrower and constantly receding limits.

REFERENCES

International Law: L. Oppenheim, Third Edition, Vol. II, p. 3-61.

International Law: C. C. Hyde, Vol. II, p. 99-165.

The New World Order: F. C. Hicks, Chapters X, XI, and XII.

Armaments and Arbitration: A. T. Mahan, p. 1-56, 78-99.

The League of Nations Starts: Chapter IV.

An International Court of Justice: James Brown Scott.

Arbitrations and Diplomatic Settlements of the United States: Carnegie Endowment for International Peace.

International Courts of Arbitration: Thomas Willing Balch.

CHAPTER VIII

SELF-HELP

WE have seen that the main sanction of international law—the force that makes it prevail—consists in “the desire for anticipated advantages of reciprocity as well as fear of retaliation.” Nations secure respect for their own interests by vigorously respecting the dictates of the Law of Nations. They need no policeman to remind them of their true interests. There is an enlightened self-interest which constrains them to recognize that the interests of others are their own interests. Nations therefore do not submit to the rule of an international sovereign but to the *reign of law*.

We have seen that the true rôle of nationalism is to enable men drawn together by a genuine community of aims and interests to seek their higher development and the attainment of their ideals in that environment best suited for them. We have seen how complex, delicate, and comprehensive these national interests are; and how difficult it often is to reconcile or even to define them satisfactorily in certain instances. The most sacred obligation of governments therefore is to make certain that national interests are vigilantly protected. Neither idealism nor indifference can justify a government in ignoring the just claims of

national interests. The highest statesmanship seeks the mutual satisfaction and reconciliation of conflicting interests; but it is always true: *salus populi suprema lex*.

In the protection of national interests governments are driven to adopt various methods of redress or retaliation. The commonest and least objectionable method is that of tariffs on imports. This may be used either to protect local industries from alleged injurious competition or as a measure of constraint against a nation because of its denial of just claims under international law or because of unfriendly acts against citizens of another nation. Acts of retaliation through tariffs or other measures designed to deny to one nation the rights it may deny to another are termed acts of *retorsion*.

There are other measures of constraint such as non-intercourse, or *embargo*, where citizens are forbidden to trade with an offending nation. The efficacy of such measures has not been adequately demonstrated as yet. American experience in the Napoleonic Wars certainly showed them of doubtful value. It has been well observed that such retaliation is a good deal like trying to freeze a fierce bull-dog by holding him out of the window when the temperature is below zero. As a means of exerting the collective pressure of nations against an offending nation, under the direction of the League of Nations, non-intercourse may prove of considerable efficacy, particularly if the defendant is small and poorly supplied with economic resources.

The use of the boycott is a weapon which may prove effective in some instances, as in the case of the Young Turks against the Austrians in 1908. The refusal of citizens to purchase any articles coming from an offending nation may result in an immense economic loss and in permanent exclusion from valuable markets. It may prove a most powerful means of constraint and retaliation.

Such measures of "non-hostile redress," however, may prove entirely futile, and more strenuous action may be required to protect injured national interests. Nations occasionally resort to what is euphemistically termed a "pacific blockade" which, as a matter of fact, is neither pacific in action nor a blockade in legal effect. Other nations may properly object to any interference by a pacific blockade with legitimate trade with the nation under constraint.

There are other measures of retaliation where nations threaten to bombard or actually occupy foreign ports to secure redress against alleged wrongs. All such measures are to be classified as intervention. They are in derogation of the fundamental rights of the sovereignty, independence and equality of nations. The principle of non-intervention is essential to respect for the basic right of existence.

In the face of this clear principle of non-intervention however, are to be found numerous instances of active intervention on many grounds and pretexts. The most justifiable is collective intervention when nations join together in the mutual

protection of their many citizens and interests, as in China during the Boxer Rebellion in 1900, or the blockade of Crete in 1897.

There is another kind of intervention when a single nation receives a mandate from others to intervene in another nation's affairs to protect the interests of all. The United States has repeatedly intervened in Latin-American affairs for the alleged purpose of upholding international law and order where, under the Monroe Doctrine, European intervention would not be tolerated. This has entailed the actual administration by the United States of the affairs of Santo Domingo and Haiti and the maintenance of American troops in Nicaragua.

Many interventions have been justified on the broad grounds of humanity and self-preservation. Too often they have resulted in permanent occupation and annexation. On the other hand, in the case of the Barbary Pirates and other backward peoples, intervention may prevent gross injustice and result in the general good. Civilization in many instances has been upheld and international society protected from great injury. If nations were really free to do as they please within their own borders the cause of civilization would be greatly imperilled. In fact the rigid insistence on a high standard of international conduct and responsibility has unquestionably prevented certain peoples from lapsing back into primitive savagery.

The question of intervention, therefore, has been treated by publicists, not as a right, but as an occasional exception which may or may not find justifi-

cation. As a matter of fact intervention has its justification under international law. This right is based on the "right of self-help" long recognized in the Common Law. Instances of this right are: killing in self-defense, the right to take possession of stolen goods, *dum fervet opus*, to reoccupy land wrongfully seized, to forcibly arrest criminals caught in the act of committing a crime, to hold goods as security for the payment of debts, to abate a private nuisance or even a public nuisance under certain circumstances. Long ago the Common Law was compelled to admit that there are instances when, in the absence of the protection of the law or of an adequate remedy, the aggrieved party is warranted in taking the law into his own hands. This is clearly a sound principle based on common sense and justice.

The obligation of law to see that every wrong should have a remedy is essential for all society; but where no protection or redress actually exists it would be grossly unjust to deny to the aggrieved parties any right of self-help. This condition of affairs finds its most conspicuous illustration in the frontier stage of development in communities where citizens are bound to secure a rough and ready justice; when an aggrieved party may call on his neighbors to form a *posse comitatus* to recover stolen goods or even to hang criminals. This state of affairs is rare nowadays, but it was common in the 14th and 15th centuries in England. The Common Law was reluctantly constrained to recognize the right of self-help in many instances.

Candor compels us to recognize that, from the political point of view, international society is in a backward stage of development. The struggle for self government, for political institutions, for judicial safeguards: all this was laboriously won by Anglo-Saxons through centuries of effort. In fact the process of the evolution and perfection of political and judicial institutions is still going on. The task of the evolution and perfection of international society of course is infinitely more difficult.

The reasons for this backward development of international society have already been suggested. First of all, there is the long suppressed right of nationalism which in its explosive force, its immaturity and its perversion, has often found expression in lamentable ways. There are many degrees of national intelligence and efficiency. There are many backward nations that exact much patience from the rest. There are varying standards of justice, morals and of logic. There are conflicting interests of millions of peoples to be reconciled.

A second reason for the retarded development of the society of nations is that they stand in a fundamentally different relationship to each other than do individuals within a state. Men in a state having a general community of interests and enjoying common political institutions are able to settle their differences amicably as a rule, though the American Civil War was a fearful exception. Nations—we have seen—should not be judged as individuals: they do not reach their decisions or function in the same manner; their vast interests are

not susceptible of the same treatment as are the interests of individuals. They do not respond to the same laws. Their relations are governed by a distinct kind of law.

We have seen that the Law of Nations does not permit of coercion: its reasonableness and its strength depend on the general consent of nations. Nothing is so hostile to progress and to peaceful evolution as the threat of coercion among nations. The best interests of international society are to be protected by patient methods of conciliation, not by coercion.

Under such conditions, therefore, the evolution of international society is excessively slow. It cannot safely be accelerated by coercive measures that offend and outrage national sensibilities. The attainment of common standards of right and wrong, and of political concepts is by the very nature of things most difficult. The reign of law is not always to be assured. There will be occasional outlaws among nations when a *posse comitatus* is needed to vindicate the Law of Nations, as in the World War. There will be nations with grievances for which there is no adequate law or redress. There will be clashes of national interests where no conciliation seems within reach.

In view of these facts we are bound to admit that international society, compared certainly with the political development of such nations as Great Britain, the United States and France, is in a backward stage of development. Under such circumstances, therefore, we are compelled to acknowledge

that intervention in certain restricted cases may have a legal justification, the right of sovereignty, independence and equality to the contrary notwithstanding. Intervention may be based on unjust grounds as pretexts for aggrandisement, but in cases where national interests are vitally affected it may be the only possible course left open if the law provides no adequate redress.

It is clear that intervention by force is the weapon of a stronger nation against a weaker, as exemplified by the joint action of Great Britain, Germany and Italy against Venezuela in 1902. But it must also be remembered that small nations may take advantage of what has been well termed their "forceful feebleness" and taunt a big nation to the effect that in the prosecution of a just claim it would not dare to bully a smaller nation.

In the event that a nation chooses to resist, it is obvious that intervention then becomes war. If the aggressor is seeking redress for an injury for which there is no remedy or where no reparation is granted, war may then have its entire legal justification. War is not always the result of unworthy passions or proof of a primitive condition of savagery. It may be a solemn obligation, an imperious call of duty in the pursuit of justice. Revolt against tyranny or gross injustice has ever been considered a sacred right, even though it may mean war in all its horror.

The Balkan War of 1912 waged by Serbia, Bulgaria, Montenegro and Greece against Turkey has been generally regarded as a legitimate war for the

liberation of the Christian peoples under Turkish rule in Macedonia. Even as great a pacifist as Norman Angell has been willing to concede this, though at the sacrifice of his own pet theories concerning war. The Spanish-American War of 1898 would seem to find a similar justification as the abatement of an international nuisance which had too long been a scandal and a shame to humanity.

Furthermore, it must be realized that both parties to a war cannot be wrong. If the aggressor is without justification, resistance is hardly a crime. And *vice versâ*, if the aggressor is justified in seeking redress for a grievous wrong, the nation attacked may not be deserving of sympathy.

It is not as if two knights were engaged in a chivalrous tourney without any serious issue at stake. War in the pursuit of justice may be terrible, but injustice may be more terrible. An appeal to avoid war because it is hideous is an appeal to a base sentiment if it prefers injustice to bloodshed.

In conclusion, we must confess that such a state of affairs, where justice can only be had at times through revolt, intervention and war, is a most serious reflection on international society. All nations must accept their full measure of responsibility. The League of Nations of course, is a frank attempt to meet this lamentable situation. The conscience of the world would seem to have recognized this stain on civilization. But the solution of the difficulty is one that depends on reason and on good will rather than on sentiment. The difficulties in the way of an effective solution which have already

been pointed out, will be more specifically dealt with in considering the League of Nations in a separate chapter.

Pacifism is quite right in attacking this fearful institution of war, and the efforts of many pacifists have had excellent results. In focussing public attention on the need of effective means of administering justice among nations, pacifism has rendered a great service. But it is pursuing an ignoble end and dulling the finer sensibilities of men when it demands peace at any price.

The principal concern of international society is not to avoid war but to secure *justice through peace*. To attain this end it is necessary to build up the Law of Nations so that for every grievance there shall be an adequate remedy, and that a fair chance be provided to reconcile conflicting national interests on an equitable basis. But where international society is unable to provide adequate legal remedies for serious wrongs it cannot fairly deny to an aggrieved nation the right of seeking justice through the self-help of intervention or even, in extreme cases, of war itself. *Fiat justitia pereat mundus!*

REFERENCES

International Law: L. Oppenheim, Third Edition, Vol. I, Chapter V.

International Law: C. C. Hyde, Vol. I, p. 119-161.

Institutes of the Law of Nations: James Lorimer, Vol. II, p. 29-55.

International Law: W. E. Hall, Sixth Edition, Chapters VIII and XI.

International Law: George Grafton Wilson, Chapter IX.

History of English Law: Pollock and Maitland, Vol. I, p. 417, 418; Vol. II, p. 41, 49-52, 55, 61, 147, 168, 527, 574-578.

A History of English Law: W. E. Holdsworth, Vol. III, p. 243-249.

CHAPTER IX

WAR AND NEUTRALITY

THE appeal to force when reason can secure no redress for injustice is the very antithesis of law. The *Law of War* is utterly abnormal—the very negation of law: *Inter arma silent leges*.

The true function of International Law is not to *regulate* war, but “to perfect the peaceful relations of states.” When law is inadequate and unable to provide an effective and an immediate redress for wrongs, it can only resignedly recognize the right of a nation to the dread self-help of war. It can not assume responsibility for the precise manner in which this right of redress is exercised.

The general public has lost its perspective and sense of values in attributing a vast importance to the Law of War. This is not strange when one recalls that the two Hague Peace Conferences of 1899 and 1907 devoted the major portion of their labors to the rules of warfare; and that many learned publicists have seemed to place the Law of War on an equality with the Law of Peace.

Furthermore, the general public has experienced a great disillusionment in the general disregard by belligerents of many of the rules of war so carefully formulated and solemnly accepted. No

wonder that many have exclaimed "Of what use is International Law?"

The answer to this scepticism would seem to be first that the presence of one outlaw in a community does not imply that there is no law; and secondly that the very nature of war has been misunderstood.

The object of war, as stated in the British War Manual, "is the complete submission of the enemy at the earliest possible period with the least possible expenditure of men and money." Its object is not to kill and to destroy, but "a renewed state of peace," to employ the words of the United States war instructions.

War, therefore, is waged to effect results commensurate with the force and the methods employed. As force is not a rationalistic method it cannot be subjected to inflexible rules. When force meets force reason can play but a subordinate part. Unfortunately, by the very nature of things humanitarian considerations may not absolutely control the conduct of war. To speak of a "humane war" is almost an unpardonable piece of sardonic humour.

War undertaken for the purpose of securing redress for wrongs or protecting the highest interests of men and of humanity itself should not be regarded either as a prize fight or as a chivalrous contest of knights more concerned with forms than with right. The stern pursuit of justice through war does not permit of much "humanity" in methods, as France and her allies discovered in their brave resistance to Germany.

German methods in the World War were justly

condemned in many instances. The German conception of war was utterly abhorrent to the rest of the world, and yet there is an immense amount of logic in the maxim *Kriegsraison geht vor Kriegsrecht*, that is to say: "the reason of war takes precedence over the laws of war."

The law of military necessity is inexorable. It is recognized by all war codes. Attempts have been made, it is true, to prescribe the precise conditions under which it may properly be invoked. The result, however, is to emphasize the fact that only a responsible military officer in the actual presence of a pressing emergency during the course of a battle may determine when such a necessity exists. He may be guided or bewildered by humanitarian considerations, but if his task is to save his country from annihilation, to protect rights and liberties from tyranny, his choice of method may not be rigidly prescribed by any rules of war. The "reason of war"—the triumph of force over force—alone can determine.

As the ultimate object of war is "a renewed state of peace," war should be waged to render peace possible, a truth which Germany chose to ignore in the World War, to her great cost and that of all of Europe. Germany forgot the injunction of Saint Augustine: "Be peaceful, therefore, even in waging war in order that you may lead those whom you defeat to recognize the value of peace in their overthrow." The constraint exercised by belligerents, therefore, should be calculated to accomplish the original purpose of the war, namely, to secure

redress for wrongs. Needless destruction of life and property will be avoided. Military measures such as the sinking of passenger ships and the aerial bombardments of crowded cities will be rejected because the practical military results are utterly incommensurate with the suffering caused and with the moral effect of such measures. Furthermore, measures not justified by the exigencies of military necessity are quite certain to provoke retaliation. War may then rapidly degenerate into a series of hideous reprisals.

It must also be borne in mind that during actual hostilities there can be no effective check and control over the methods employed. War is not a prize fight to be conducted in the presence of a referee! Adequate penalties cannot be imposed for alleged infractions of the rules of warfare by the belligerent that wins. It is true that the Washington Conference attempted to classify certain acts by submarines as acts of piracy: but so drastic a measure is of very doubtful justification and value. To brand as pirates men who in battle obey orders without stopping "to reason why" is to subvert all military discipline. It places honorable men in the unfair dilemma, either of violating their oaths of loyalty, or of violating rules of warfare concerning which there may be serious disagreement as to their justification or interpretation.

The necessity for formulating the Laws of War is unquestionably imperative. Men should agree in times of peace on the methods of warfare they will attempt to observe if driven to the necessity of em-

ploying this terrible means of self-help. Every effort should be made to avoid possible misunderstandings in war which might at times even prevent an early termination of hostilities, or lead to savage reprisals.

The task of reaching these understandings, however, is not one primarily for jurists: it is peculiarly the task of military experts. They are the ones who know best what war really is: they are the ones who must interpret the rules agreed upon. The high duty of jurists, it must be reiterated, is not to *regulate* war, but to *avoid* war. Theirs is the sacred obligation of building and strengthening the whole system of international law so that recourse to war may become only the rarest of exceptions. The energy and talents of jurists should not be wasted on war: they are most urgently needed to perfect the Law of Peace and to provide the solid foundation for international conciliation and true justice.

This is not to disregard the rights of neutral nations who claim that if other nations are barbarous enough to resort to war they have no right to disturb the tranquility of their peaceful neighbors. It is true, of course, that some wars may be so localized as to affect very slightly the interests of neutrals. A war between Chile and Bolivia, for example, would cause Bulgaria slight concern if any at all. But neighboring neutrals are bound to be concerned. Their commerce, their citizens, their larger interests may readily become involved. A war between great powers naturally has the most

widespread and profound effects on neutral interests. It is preposterous to ask that when belligerents have been driven to the *ultima ratio* of the sword, neutral nations should be permitted tranquilly to pursue their various interests as if no war were being waged.

The prosecution of war necessarily implies coercive measures by blockade and by the seizure of goods and ships which must greatly restrict or entirely prevent neutral commerce with belligerents. The mobilization of all the resources of a nation, human as well as material, in modern war has shown the impossibility of observing rules originally drafted to mitigate the severity of interference with neutral interests. The distinction between absolute and unconditional contraband has disappeared. Any article that may be essential to a belligerent, whether salt or saltpetre, as observed long ago by Lorimer, becomes liable to capture. Neutral trade with belligerents, therefore, is rendered practically impossible.

Furthermore, the World War amply demonstrated the unreasonableness and the folly of permitting neutral nations to replenish their own resources from other countries in order to enable them to add their own supplies to the strength of a neighboring belligerent. This is against all logic and against the spirit of the rules governing neutral intercourse with belligerents. It was shown that Denmark, during the late war, imported in one month "more than thirteen times the quantity of lard which had been imported annually for each of

the three years before the war." Under such conditions neutral nations cannot justly complain against rigid restrictions on sea-borne commerce to prevent positive aid to belligerents.

Whether a nation is prosecuting a just war for the redress of wrongs for which International Law, arbitration, or judicial settlement provides no redress; or whether a nation is defending itself against unjust aggression, it would seem clear that the rights of belligerents must assume a certain precedence over neutral interests. If neutral nations are themselves spared the actual horrors of war they have reason to be thankful. They cannot properly insist that their interests are superior to those of belligerents.

But there are positive obligations placed on neutral nations. Not only must they acquiesce in grave interference with their relations with belligerents, but they must conscientiously abstain from any unneutral participation in the war. They must by their acts demonstrate a complete impartiality, and particularly by preventing within their jurisdiction any aid or privileges to one belligerent as against another. The vigilance imposed on neutral nations to guard against the unneutral use of their harbors and waters by belligerents is at times a most exacting obligation, as Great Britain discovered in the famous case of the *Alabama*.

If neutral nations, therefore, cannot be considered as innocent bystanders in time of war, their attitude cannot properly be one of indifference. Their own selfish interests are bound to be vitally involved

at times. They may become so involved as to force them to take sides either in thought or in act. The triumph of one side may most profoundly affect the interests of a neutral nation. It may be blind to its own interest, or even impotent to act: in any case its situation is liable to be embarrassing or ignominious.

Neutrality, therefore, is an abnormal relationship based on an abnormal state of affairs. It is above all a serious reflection on the duties of international citizenship. If selfish material interests cannot awake a neutral nation to the realization that indifference is impossible, a larger sense of responsibility as members of the family of nations should render indifference shameful. The presence of an outlaw in a community is a challenge to all good citizens to join in a *posse comitatus* to secure a rough and ready justice. The right of men to the redress of wrongs should never leave other men indifferent. The protection of one man's rights is the protection of the rights of all.

Nations, therefore, which desire always to remain neutral in any war, or to avoid the necessity of recourse to war themselves are those members of international society primarily concerned with the problem of the abolition of war. If they deem war in general or in particular unnecessary and indefensible they are bound to seek better safeguards for international rights. If they have not done their full duty to render war entirely without justification they cannot claim immunity from its inconveniences and trials. They cannot with callous

indifference see justice flaunted and grievances undressed.

The League of Nations is a bold enunciation of the principle that neutrality is no longer permissible. Nations are challenged to take sides in case a nation places itself outside of court. They are compelled to aid in the solution of controversies which threaten the peace of nations. They can no longer be *neutral*. This great aim of the League of Nations is entirely laudable but excessively difficult of attainment. One of the greatest of these difficulties is the natural tendency of nations to take sides in controversies, either because of special interests or of friendly sympathies. Instead of neutrality we then have a shifting of forces and the consequent revival of the vicious principle of Balance of Power.

But the greatest difficulty in the way of obtaining justice without war and without neutrality is the one so repeatedly urged in the previous pages; namely, the creation of an adequate body of law and of the effective means for the just redress of all grievances. We have seen how complex and how delicate are the rival interests of nations. We have seen how difficult is the task of defining and of protecting these interests. We have seen the limitations of arbitration and of judicial settlement. We have seen that nations cannot be safely coerced either morally or by brute force. In fact some nations are as resentful of moral coercion as of physical aggression.

The Law of Nations, as we must constantly bear in mind, rests on common consent. Its force is its

reasonableness. Its methods are different from those of other systems of law. It requires lofty and generous conceptions of justice. "In the rude jurisprudence of nations there is no room for the refinements of courts." International Law proceeds by conciliation. It seeks the redress of wrongs by orderly processes of argument, persuasion and mutual agreement. It is not imposed by any international sovereign or enforced by a policeman. It is a substitute for war only when it guarantees clearly and dispassionately the full protection of all the many complicated interests of international society and the adequate redress of legitimate grievances.

Until this sublime end is within reach and nations have faith in thoroughly tested methods of international justice; until they preserve genuine good will towards each other, it is out of the question to entirely eliminate war as an abnormal and lamentable feature of international society in its present backward stage of development. And neutrals, if they choose to remain neutral in the presence of unjust wars of aggression, or of unredressed grievances, cannot properly complain if their interests are adversely affected. They cannot with self respect be indifferent to the necessity for justice and for the better organization of the family of nations.

REFERENCES

International Law: L. Oppenheim, Third Edition, Vol. II, p. 382-418.

International Law: John Westlake, 1904, Vol. II, Chapters I and VII, p. 115-119.

Institutes of the Law of Nations: James Lorimer, Vol. II, p. 18-179.

International Law: George Grafton Wilson, p. 241-245, 385-396.

International Realities: P. M. Brown, Chapter VI.

CHAPTER X

INTERNATIONAL ORGANIZATION

THE unity of nations is an ancient Christian ideal, the vision of St. Paul and of St. Augustine, the aim of the Roman Empire and of the Roman Catholic Church, of kings, of statesmen and philosophers. The brotherhood of man is a supreme ideal that dominates most political and religious thought. It is an ideal towards which all civilization inevitably trends, but it is an ideal infinitely more difficult of attainment among nations than among men of the same race and religion. Witness the unsuccessful attempts of honest, well-meaning citizens to achieve good government in our cities. Witness the lamentable failure of nineteen hundred years of Christianity to eliminate crime, vice and injustice, and to bring about good will among men.

Progress unquestionably is being made in raising the general standard of the human race; but it is a great mistake to approach the vast problem of government, whether local or international, from the emotional standpoint. Belief in the brotherhood of man does not make citizens share each other's political views. Men may agree concerning the ultimate goal but differ profoundly concerning the best way to reach it.

Much harm has undoubtedly been caused by idealists, either in attempting great reforms by unwise programs, or in instituting reforms when men are unready to appreciate their need and value. Witness the Eighteenth Amendment. This is tragically true in international relations, as James Lorimer once pointed out: "The great impediment (in the way of the growth of international jurisprudence) is the hopelessness caused by the debris of impossible schemes which cumber our path, and from them it must be our first effort to clear it."

When men's hopes have been lifted high, and great emotions have been stirred, the discouragement that follows disillusionment is most tragic. Cynicism may easily succeed to idealism. A great ideal may have been undeservedly discredited. A laborious campaign of education may have to be renewed at a time when men's faith has been shattered.

And so one must approach the problem of international organization with dispassionate reason rather than with emotion and sentiment. Accepting the inevitable goal of mankind, and eager to facilitate the progress of international society, we must be sure that we first understand its characteristics and functions. The greatest service we can render to so splendid a cause is to clear the obstacles away from the highways of nations. It is criminal in a great surge of emotion to entirely ignore obstacles. It is the finest kind of faith and optimism to believe in a cause in spite of obstacles.

The fact that great men have repeatedly urged

plans for the unity of nations should make us realize that there must exist most serious reasons why these ideals have never been attained. It is true that in the seventeenth and eighteenth centuries wars were fought to gratify the ambitions of princes and the lust for territory; that men fought from blind passions of religious and racial hatred. But the later wars, with occasional exceptions, of the nineteenth century have been of a different kind. The growth of the nationalistic ideal in Italy and Germany unquestionably led to wars for national unity. As popular democratic government has spread, so have popular nationalistic ideals, and they have not all been of a lofty generous character. Let us be cautious of accepting the statement that democracies are more likely to be free from errors of judgment or base passions!

We have noted how the present stage of nationalism—that of “self-determination,”—has led to extreme manifestations and results. We have seen how long-suppressed nationalities are now revelling in immature ambitions and sentiments. We have seen how the interests of international society have been seriously retarded by the presence of nations in a backward stage of political development. We have seen that the great peace settlement of the World War contains many germs of discord and possible wars. As some one has ironically remarked: “the war is over but peace is raging.”

There are practical reasons enough why schemes for international unity have not been capable of successful application. But there are reasons of

the nature of fundamental principles which have been too often ignored in considering these projects for the organization of the brotherhood of man. There has been a most unfortunate failure to analyze critically the institutions and relationships of men in their international intercourse. There has been a lamentable impatience to erect the building before the foundations were laid, the materials assembled, and the very laws of international construction fully understood. There would seem to be considerable debris of unsound ideas and impossible schemes to be removed before the great enterprise can be properly studied and appreciated.

The first great error, as has been already suggested, is that of reasoning by analogy from men to nations. If it is believed that nations are only sums of individuals, that they reason, act and re-act in identically the same way as individuals, then it is easy to assume an international organization responding to the same principles and laws. But if we see nations as special organisms, as groups of men bound together in one distinct national life by a genuine community of interests; if we see them working out problems on independent lines in varying forms of institutions and ideals; if we see them reaching decisions and acting in ways quite different from the ways of individuals, we then realize why international organization is so difficult to attain. We see that the relationships of nations are of a most peculiar kind, and that the law controlling these relations is distinct from any other kind of law. We see that the protection of national inter-

ests is a problem that renders international unity painfully hard to achieve.

Another kind of reasoning by false analogy is from the political experiments and experiences of particular nations. Democracy is criticised because Athens once made a failure of direct government. Socialism is discredited because of various isolated experiments. The error here is in assuming that in human affairs you can reproduce, as in a chemical laboratory, identically the same conditions and attain identical results. Men are not inert atoms.

In arguments for international organization much has been made of the success of the United States in forming a government out of thirteen sovereign states and in submitting to the benign autocracy of the Supreme Court. It is asserted that if this could be done within the United States it should be done amongst nations.

The fallacy of this argument is seen to lie in the assumption that the different nations of the world are as similarly related to each other in ideas and ideals as were the Thirteen Colonies. It is a painful fact to have to recall that, though the different States of the Union did possess many essential bonds of unity, they were unable to avert one of the most terrible wars of all times. It is all the more imperative to realize the profound racial and nationalistic gulfs that separate so many of the nations today. To infer from the experience of the United States that nations in general can safely undertake a like experiment would seem to be an egregious instance of reasoning by false analogy.

There is no greater error in reasoning about international organization than in the failure to realize that nations differ radically in standards of thought, of ethics and of legal conceptions of right and wrong. It is true that Grotius and other political thinkers of the seventeenth and eighteenth centuries assumed a common God-given faculty whereby men of all races and nations could know infallibly whether an action was to be approved or condemned. This assumed Law of Nature undoubtedly served a valuable purpose in constraining men to accept higher humanitarian standards of conduct. It would seem, however, to have been nothing but an assumption at variance with the facts of experience.

Nations undoubtedly differ most profoundly in their intellectual characteristics. The same high powers of logical scientific reasoning are not possessed by all alike. Men in general do not draw the same conclusions from the same premises; and they often postulate the most amazing premises! It is an interesting speculative problem to enquire what impulses, what inherent influences lead men to such extraordinary differences in *a priori* reasoning and in inductive or deductive processes of thought. A Japanese and an American, a German and a Spaniard, a Russian and an Englishman, may argue from distinct premises on which they cannot agree, or draw varying inferences from the same group of facts. One of the profoundest and most melancholy observations made during the World War in this connection was that of Maximilian Harden in reference to neutral condemnation

of Germany: "We Germans do not think as other peoples think."

When therefore we acknowledge this sad fact; when in all humility we recognize the difficulty that men of the same stock and traditions encounter in understanding each other, we should be most charitable and patient in judging of the almost insuperable difficulties in the way of understandings between nations of different stocks and traditions.

Then there are those mysterious ethical distinctions between men of different nations—those strange mystical origins of moral standards—those intense emotional forces that impel men to acts that in one country are applauded, and condemned in another. Perhaps no finer code of chivalry ever was conceived than the Bushido of Japan; and yet it contains ideas fundamentally at variance with those of other nations. So with the ethical injunctions of other races. Mendacity, though generally reprobated, is held a virtue in some countries; suicide is held in horror in most countries, but is a laudable act in some; the torture of witnesses is universally condemned in principle though approved in practice in certain countries; even parricide is regarded as a filial duty among certain Esquimaux tribes! We find that ethical standards among nations vary according to their various religious cults, their superstitions, and customs. They often are in antagonism or have very little in common.

As legal concepts and general standards of right and wrong have their origin in large measure in religious and ethical codes, or even are identical in

certain instances, namely in the case of the Moslems, it is inevitable that nations should differ profoundly concerning rules of justice and equity. When an appeal is made to the public opinion of the world in a given international dispute, it is not at all strange that the responses should vary so extraordinarily. Men do not reason from the same intellectual, moral, or legal standpoints. Their conceptions of justice unfortunately are often irreconcilable. This explains in part why international law has had so slow and laborious a development. Depending as it must on the common consent of nations, and not imposed by force, it must patiently wait until nations are able better to understand each other's points of view and to find a common ground for international justice. The Law of Nations is neither a schoolmaster nor a tyrant: it *serves*; it does not command.

In view of these basic differences in intellectual, ethical and legal standards, it is not strange that it should be so difficult to adjust the conflicting interests and natural rivalries of nations. We have seen what are those rivalries and conflicting interests. We have seen how excessively difficult it is to formulate the law to protect these interests and to accord justice. We have seen how nations, such as Italy, deprived of adequate natural resources, are made dependent on the good will of other nations more fortunately supplied. We have seen oppressed nationalities like the Armenians appealing in vain for justice.

When, therefore, men talk of international organ-

ization they must first frankly acknowledge the vast differences that separate nations and render mutual understandings and agreements so painfully difficult or unattainable. Instead of attempting radical schemes for regulating international society and of manifesting impatience or despair over the retarded development or the perversity of nations, we should be thankful that things are no worse; we should be grateful for every slight gain in international understanding and confidence.

Nor should we forget all those agencies—some four hundred or more—that work steadily for closer and more friendly relations between nations. Attention has already been drawn to some of them, notably the Universal Postal Union and the International Labor Bureau. The first facilitates intercourse; the second aims to raise the standard of human welfare throughout the world.

There are many of these useful agencies such as the Commissions for the Danube and the Rhine, commissions for Transport, Health, Finance, Morals and many others. The most striking of all perhaps was the Maritime Transport Council which showed under stress of war how nations could forget selfish rivalries and pool their mutual interests.

Then there are the impressive number of societies, philanthropic, scientific, religious, fraternal and commercial, that cut straight across frontiers and bring men together. This great process of friendly attrition and infiltration is rapidly going on in international society. Its influence and results are too profound to be properly estimated.

It must be admitted that in the political field there have been no outstanding instances of international administration and coöperation. The League of Nations is too young yet to furnish a satisfactory criterion of the ability of nations to work together. Attempts were made by an international commission to regulate the affairs of Albania but keen rivalries and contending interests prevented any good results. So also in the case of Tangiers. The Pan-American Union has been a most helpful agency in conciliating the interests of the nations of the Western Hemisphere. Its powers, however, have been so restricted and its action so prudently restrained, that it does not throw much light on the problem of international organization.

In view of all that has preceded it would seem clear that while we should be chary of bold experiments in international affairs, we should heartily sympathize with all existing agencies that tend to unite and not to separate nations. Political evolution would seem to demonstrate that nothing can be safely accomplished *per saltum*, but by building carefully on existing institutions. Anglo-Saxon liberties were not won by abrupt alterations in organization. The Common Law grew out of the experiences and needs of human relations.

Thus we should utilize and develop the many existing agencies which bring men of different nations to understand each other and to coöperate. Intercourse and the education that accompanies it are the means of first importance for this great end. Peoples must have larger opportunities to know

each other, to understand and to make allowances for differences and to work out common purposes.

Political agencies that give rise to friction and controversies must be avoided as a grave menace to international society. If the League of Nations should prove, as it is hoped, an agency for uniting nations and not dividing them, it will merit the most generous and devoted support. But we must first be sure that such agencies are in entire harmony with the basic principles that govern the relations of nations.

REFERENCES

Institutes of the Law of Nations: James Lorimer, Vol. II, p. 181-299.

International Realities: P. M. Brown, Chapter V.

The League of Nations: Stephen P. Duggan, p. 1-81, 307-328.

The Society of Nations: T. J. Lawrence.

An Introduction to the Study of International Organization: Pitman B. Potter.

✓ World Organization: David Jayne Hill.

The International Union of the Hague Conferences: Walther M. A. Schucking.

Leagues of Nations, Ancient, Mediaeval, and Modern: Elizabeth York.

The English-Speaking Peoples: George Louis Beers.

CHAPTER XI

THE LEAGUE OF NATIONS

THE League of Nations is undoubtedly "a going concern," to quote the words of its most enthusiastic advocates. It has been most active from the start. It is admirably organized and strategically located in the heart of Europe.

Among the political activities of the League should be noted its supervision of the administration of the Saar Basin and of the government of the Free City of Dantzig in accordance with the provisions of the Treaty of Versailles.

The League was called on to disentangle the Silesian question when the Great Powers were unable to do so. This was done first through the arbitral award of the Council of the League, and secondly through the negotiation of the specific agreement between Poland and Germany required under that award.

The troublesome controversy concerning the Aaland Islands was settled through the action of the League, first in obtaining an investigation of the problem by a special commission of jurists, and then by awarding the Islands to Finland with the restriction of the nature of a servitude that they may never be fortified.

Unfortunately, the rival pretensions of Poland and Lithuania to the city of Vilna and its environs have not yet been reconciled in spite of the counsel and friendly mediation of the League.

The friction and the open hostilities between Jugo-Slavia and Albania were happily terminated through the interposition of the League.

The League has been entrusted with the supervision of the mandates over the various portions of the former colonies of Germany; the carrying out of the guarantees in the treaties of Paris concerning the rights of minorities in Poland and certain other countries; the supervision of the agreement concerning the suppression of the White Slave Traffic; and the suppression of the Traffic in Opium and other Drugs.

The following activities are also under the League: International Labor Organization; International Health Organization; International Finance Conference; Advisory Transit Commission; Advisory Statistics Commission; and The Permanent Armaments Commission.

Furthermore, we must not forget that vast array of international agencies—some sixty public and four hundred private,—which have been placed under the direction of the League; notably, the Universal Postal Union, the Latin Monetary Union, the Sugar Union, the International Institute of Agriculture, the International Bureau of Weights and Measures, and the International Hydrographic Union. Then there are the various private enterprises such as the Red Cross which have their

headquarters under the aegis of the League, which is thus to serve as a stupendous international clearing house. ||

The Secretariat of the League is admirably organized to direct all these multifarious and intricate activities, under the control of the Secretary-General.

The technical Sections of the Secretariat are as follows: (1) a section dealing with the administrative commissions in the Saar and elsewhere, as well as many matters arising out of the treaties of Paris; (2) the Economic and Finance Section; (3) Information Section; (4) International Bureaus; (5) Legal Section; (6) Treaty Registration; (7) Mandates; (8) Political Section; (9) Social Questions; and (10) Transit and Communications.

The Administrative Departments of the League are six in number: Finance, Library, Registry, Establishment, Interpreting and Translating, *Précis* Writing. The services of these various departments are available for all the various activities of the League. In all these Sections and Departments are to be found representatives of many different nationalities. The Americans are well represented in numbers and influence.

The general functions of the Secretariat are two-fold: First to prepare the agenda and reports for the meetings of the Council and of the Assembly; and second to act as a continuing body while the Council and the Assembly are not in session. This latter function is very important and amounts in

fact very nearly to the creation of an international executive. The Secretariat not only works all the time in carrying out the decisions of the Council and Assembly but it supervises international intercourse to a certain extent. While it may take no final action in a given controversy, it may ask for full information and make suggestions of a very important nature. An interesting indication of this tendency was the action of the Secretariat on its own initiative in communicating with the Governments of Panama and Costa Rica during their boundary dispute in 1921. There would seem to be hardly any reason to doubt that the Secretariat by the interposition of its own offices, by investigations and reports, may exercise a profound moral influence in international relations.

The Assembly of the League, according to the provisions of the Covenant and actual experience, would not seem to have great powers. As an open forum for all nations on the basis of absolute equality it serves a most useful purpose. In participating with the Council in the choice of the judges for the Permanent Court of International Justice, the Assembly is able to represent the diverse legal, and racial points of view of the various nations.

The Council unquestionably controls the League through the power of final veto reposed in the four Great Powers who are permanent members, namely, Great Britain, France, Italy, and Japan. No important action may be taken without their approval, and the Covenant itself cannot be amended except by unanimous consent. The

“Primacy of the Great Powers” thus finds its full recognition and the equality of nations its full repudiation in the organization and control of the Council.

Composed largely of diplomats or of actual members of governments, the Council is primarily a diplomatic body representing national rather than international interests. Its members are naturally precluded from approaching the various problems presented in a disinterested, dispassionate manner: they are bound to be influenced by the desires and policies of their respective governments.

① The general functions of the League would appear to be as follows: First, in spite of labored explanations to the contrary, it purports to guarantee—at least in a moral sense—the existing *status quo* either against physical aggression or against the revision of the treaties on which the League is based. No one has suggested how the *status quo*, so far as the Great Powers are concerned, can be altered without their unanimous consent. What they may choose to do outside and in derogation of the League’s authority is another matter. Witness the discarded Treaty of Sèvres and the various separate agreements with the Turkish Nationalists in Angora!

② A second general function of the League is to guarantee the fullest discussion of international disputes before nations are permitted to resort to war. How far this guarantee may prove of value can only be shown by experience. No one can fairly question, however, the desirability of full and free

opportunities for the airing of controversies and for affording time for passions to calm down.

A third guarantee is that coercion of some sort will be brought to bear against any nation which seeks self-redress through war without having first demonstrated its full right to do so. The form that coercion may take, whether by economic pressure, reprisals or actual war, is left to the discretion and the advice of the League.

This function is perhaps the most questionable of all. The right to coerce nations when their grievances have not been satisfied has already been discussed. We have seen how essential it is that international relations should be conducted on the basis of conciliation rather than of coercion. We may properly question the wisdom of reposing power of this character in the League.

The other main function of the League is that of coöperation in all that conduces to the best interests of international society. This is best seen in the provision placing all the international bureaus and other similar agencies under the direction of the League as a general clearing house for the world. The opportunities of the Secretariat to serve the best interests of international society are almost limitless. By wise industry and great tact it can keep nations better informed about each other's affairs and interests. It can make them realize the value and the duty of close coöperation. If the League did nothing more than this it would well justify its creation.

In analyzing the League in its varied functions

and powers, we must ever bear in mind that it represents a compromise between two opposing schools of thought; namely, those who believe in an international sovereign with police to enforce its edicts, and those who believe in conciliation rather than in coercion among nations. There are those who argue for a League "with teeth in it"—the power to guarantee treaties of peace and to issue commands. There are those who in increasing number are coming to realize that the relations of nations cannot be carried on with due respect to national interests and true justice by means of commands and regulations as in municipal affairs.

Curiously enough, arguments have been employed by representatives of both these divergent schools of thought to justify the League. It is evidently a compromise and one that may prove highly unsatisfactory when applied to some of the more delicate questions between nations.

Another fact to be stressed is that the League was deliberately tied up with the Peace Treaties and specifically charged with the execution of certain of their terms. Inasmuch as some of these provisions are generally recognized to be unwise, unjust, and impossible of execution, the League has been unfairly handicapped at the start: it has been built on shaky foundations. If great wisdom and tact are not shown in the direction of its activities it may result in the serious discredit of the League. Lord Robert Cecil has said that "the League must be *all* or it would be *nothing*," to which the Earl of Balfour has wisely replied: "if we insisted upon

using an imperfect machinery in such a manner that it broke in our hands, then, I should venture to say, we should be doing a lasting injury to an institution on which, I, like Lord Robert Cecil, pin unlimited hopes in the future."

It is evident that the League is primarily a European concern. Its political activities are practically circumscribed and concentrated in a continent. And boundary disputes in the Caucasus and the Balkans can hardly be said to be questions of world interest: they are essentially problems of regional concern which the rest of the world is hardly competent to judge.

This is why the United States in conformity with its historic policy of refraining from any participation in European politics must necessarily be reluctant to participate actively in the League. The system of "primary interests" which Washington wisely observed were so profoundly different from American ideas and ideals makes it most difficult for the United States either to understand the peculiar problems of Europe or to assume any moral responsibility for their right solution. The fact that once in a hundred years the United States is drawn into a conflict originating in Europe—the first time as an unfortunate sequel to the American Revolution, and the second time to withstand a nation crazed with the lure of world domination—is no reason why it should be perpetually embroiled in the quarrels of European nations.

It is interesting to note the suggestion that regional leagues might be formed to deal with

now?
1433

special problems of a neighborhood character as for example in the case of the countries of Central Europe. This is an idea which cannot fail to appeal with great force to those who believe that American problems should be settled according to American ideals and precedents without the intrusion of Europe in violation of the Monroe Doctrine. The Pan American Union already exists for this splendid purpose if the nations of this Continent should choose to give it more important functions and proper powers.

This idea of regional understandings to deal with special problems may prove the saving of the League and indicate the natural wise direction for its evolution. If the present League should continue to function primarily as a European concern; if other regional leagues should be formed in other parts of the world; the result might well be that they might all coöperate efficiently and sympathetically in all that concerns genuine world interests. Then might come into existence an "association of nations," a "council of conciliation," that friendly union so earnestly to be desired, in which there is no threat of coercion.

There need be no antagonism towards the League of Nations or towards any movement that sincerely aims to unite them and serves no selfish ulterior ends. The United States may be prevented by reasons of sound policy from becoming a member, but it can coöperate most heartily in various good measures fostered by the League for the good of international society. It should wish the League the

largest degree of success and welcome the day when nations may be able to get together on a broad platform of world interests. In the meantime, as a nation free from European intrigues and politics the United States may best serve the world by preserving as a sacred trust its freedom of leadership in behalf of international justice.

In its creation of the Permanent Court of International Justice the League has perhaps achieved its greatest triumph. We have already considered the great rôle of this tribunal. We have seen how it should not merely settle isolated disputes between nations but how it should help by a series of consistent decisions to build up a solid body of law, acknowledged and respected by all. Certainty of justice is the basis of true peace.

The League of Nations will do well, therefore, to concentrate on the strengthening of the Law of Nations and of the administration of justice. Guarantees of an existing *status quo*, of the dispassionate discussion of disputes, of coercion against recalcitrant nations, all are of slight value compared with this sense of justice in international society. There is no reason, legal or moral, why the United States should not have recourse to the Court of International Justice, or give it most loyal support. Americans may well sympathize with so distinctly an American ideal. They have reason to be proud of the fact that it was the wisdom and resourcefulness of an American,—Elihu Root—that enabled the Court to come into being. In emphasizing the truth that international relations should be based on

justice rather than on coercion, this Court has given a new meaning to the League of Nations; it has greatly enhanced its prestige and influence.

REFERENCES

The New World Order: F. C. Hicks, p. 3-119.

The League of Nations: S. P. Duggan.

The League of Nations Starts: An Outline by its Organizers.

The League of Nations at Work: Arthur Sweetser.

The League of Nations after Two Years: Raymond B. Fosdick. The Atlantic Monthly, August 1922.

→ The League of Nations: Sir Frederick Pollock.

Europe and the League of Nations: Charles Sarolea.

CHAPTER XII

INTERNATIONAL POLITICS

ATTENTION has been drawn in the previous chapter to the fact that the League of Nations acknowledges the primacy of certain powers and denies the equality of the rest in the organization of the Council. Great Britain, France, Italy, and Japan (the United States also, if it would) control the Council and thereby control the League itself. Because of the rule requiring unanimity any one nation can block action which may seem inimical to its interests. The territorial *status quo* may thus be indefinitely maintained, so far as action by the League is concerned.

This consecration of the principle of Balance of Power by the League is most significant. It is all too evident that international society is not yet ready for a sovereign executive clothed with sufficient powers to safeguard the interests of all the nations. National security is still to be found in military precautions and alliances. Great Britain must continue to rely on her navy to guard her vast "Commonwealth of Nations." France cannot entirely disband her army. Japan is disinclined to forego in the Far East the safeguards of her army and navy.

Clemenceau was frank to recognize this situation in his notable speech before the Chamber of Deputies

on December twenty-ninth, 1918, shortly after the arrival of President Wilson in Paris. The French Premier threw out a bold challenge by stating that France had little faith in the new principles advocated so eloquently by the American President and that she would continue to rely on the old principle of the Balance of Power. This meant of course that the League was to be welcomed only in so far as it offered security to French interests. Further guarantees were exacted, however, in the prolonged occupation of the Rhine Provinces and in the formal treaty of alliance required from Great Britain and the United States before France would accept the Covenant of the League.

Since the Armistice of 1918 there has been a fresh alignment and grouping of nations throughout Europe. Poland, by reason of its strategic location between Germany and Russia, seemed to deserve an increase in territory and resources in order to ensure a proper equilibrium of forces in that part of the Continent. The boundaries of Czecho-Slovakia and Rumania were made contiguous for the purpose of better protection against the mutilated and outraged nation of Hungary. Austria was to be rendered impotent, and its eventual union with Germany circumvented if possible. Italy was given part of the Austrian Tyrol "for strategic reasons." The unexpected expansion of Serbia and its interests in Fiume and the Adriatic in opposition to the claims and ambitions of Italy created a new and most disturbing factor in the problem of Balance of Power.

Rumania, as a neighbor of Russia and possessed of the former Russian Province of Bessarabia, stood in need of support. Bulgaria, with its reduced territory, its longing for a free outlet on the Aegean, and its great virility, seriously complicates the already complicated problem of the Balkans.

Nowhere has the principle of the Balance of Power produced more unhappy results than in the Near East. The Eastern Question is apparently eternal. It is even more insistent than before the Great War. The secret agreements of London, of St. Jean Maurienne, the Sykes-Picot agreement and other understandings between the Great Powers before the Armistice sought to reconcile their antagonistic aims. The possessions of the "Sick Man of the East" were to be divided among the victors. But immediately the War was ended these Powers fell apart, and the old game of seeking special advantages was renewed with intensified vigor. Great Britain took the lead in Constantinople, and made certain of Mesopotamia and Palestine. France held Syria and Cilicia; Italy claimed part of Anatolia; and Greece was permitted to occupy Smyrna with a vague *hinterland*. The massacre of the Armenians, their untold sufferings, their claims for help and right to a national home were forgotten. The great diplomatic game for aggrandizement and power was again in full play.

Then came the Treaty of Sèvres which suited nobody and was not destined to be enforced; the separate Treaty of Angora between France and the Kemalists, entailing the recession of Cilicia to the

Turks; the military débacle for the Greeks and the complete re-arrangement of the whole Near Eastern situation. It would be impossible as well as distasteful to take up all the tangled and sordid features of this lamentable situation. One cannot anticipate the outcome. The relation of Russia to the problem cannot properly be evaluated. We can only be sure that any attempt to readjust the Near East is bound to produce fresh conflicts and disasters. It furnishes the acid test of the inability of the European Powers to abandon the old discredited methods of international politics. The words of Charles Dupuis in his remarkable work on *L'Équilibre Européen* have a fresh and melancholy significance in their application to the Near East:

"The experience of three centuries has demonstrated that, far from insuring respect for the rights of all, the principle of Balance of Power resulted merely in causing the powerful States to concede that every acquisition of territory made by one of them might justify equivalent acquisitions on the part of the rest. . . . Powerless to re-introduce peace and justice into international relations, it has veiled with specious and virtuous pretexts unjust ambitions, baleful wars, and veritable operations of brigandage."

Turning now to another field of international politics we see that the Monroe Doctrine was the American reaction to the attempt of Europe through the Holy Alliance to establish a new balance of power and extend its malevolent operations to the New World. Too often had the wars of Europe found their repercussions in the various colonial empires across the Atlantic. The United States

could not rest indifferent to the prospect of endless European broils and conquests in the Western Hemisphere. The Monroe Doctrine, as enunciated, interpreted, and defended by the United States, undoubtedly succeeded in securing a century of peace and freedom from the pernicious operations of the doctrine of Balance of Power in the New World. It prevented another African scramble for territory. It gave to the new Republics an opportunity to evolve into manhood without European interference. The United States has never failed to demonstrate that it has nothing in common with the European system of politics and that it could never tolerate an extension of that system to the Western Hemisphere.

There is another side, however, to this question, namely the development by the United States of its own policy of hegemony among the nations of the Western Hemisphere. This policy, particularly as carried out by Presidents Roosevelt and Wilson, in denying the right of action by Europe against the young Republics of the New World, has seemed to mean an increasing interference in their affairs by the United States. While refraining from selfish aggrandizement the United States in several instances, notably in Cuba, Haiti, Santo Domingo, and Nicaragua, has undertaken by intervention to secure proper guarantees for the fulfillment of international obligations.

There is no denying that this policy has been gravely distrusted in Europe and keenly resented among the nations of Latin-America. It has been interpreted by some as a disguised attempt to obtain

special advantages to the exclusion of other nations. While this would appear an unjust charge, there is no doubt that the unwillingness of the United States to permit the qualification of the Monroe Doctrine as a genuine Pan-American doctrine to which all of the nations of the New World, Canada included, could subscribe whole-heartedly has awakened serious apprehensions. Chile, the Argentine, and Brazil certainly at one time gave evidence of a desire to form an alliance to offset the predominating influence of the United States. If Europe is unable fully to understand or to approve the Monroe Doctrine as a sound principle in international politics there is no reason why the countries of the New World should be unable to agree on its definition and interpretation. It has too often embroiled the United States in unpleasant diplomatic controversies. Interpreted as a Pan-American principle the Monroe Doctrine might serve effectively the great end for which it was enunciated while leaving the United States free to protect its own national interests as events might require.

An attempt has been made by Japan to proclaim a Monroe Doctrine of its own in the Far East. It has apparently interpreted this Doctrine, however, in a selfish sense as implying special interests entitled to protection rather than the enunciation of the general principle of "Asia for the Asiatics." The United States has been accused of inconsistency in participating in Asiatic affairs while excluding Europe from American affairs. This would hardly seem logical, however, in view of the fact that Asia

is neither Europe nor America but common, neutral grounds on which Europe and America may properly meet.

Furthermore, the policy of the Open Door advocated by the United States has aimed to protect the interests of China equally with those of all other nations. A genuine Monroe Doctrine, therefore, for America, the Far East, or the whole world should have the essential characteristic of a self-denying ordinance. It should never appear to seek special privileges in the spirit of the principle of Balance of Power.

It is not necessary to comment concerning Japan's policy except to point out that in the Far East as well as in the Near East exist conflicting interests and policies requiring great skill in the game of international politics. The reduction of naval armaments agreed on at the Washington Conference together with the other agreements concerning the Far East has not altered the situation in any essential respect. While the interests of China would appear to have benefitted in some ways, those of Japan also would appear to have been "consolidated"—to use a classic diplomatic euphemism. Japan was left in a strategically dominant position in the Far East. Its navy has the immeasurable advantage of position over any other power. The United States was compelled to agree not to maintain naval bases in the western part of the Pacific, which may be destined to become the scene of momentous struggles for its mastery.

Concerning disarmament we should entertain no

illusions. All disarmament is purely relative in character: total disarmament is impossible. One nation by reason of population, moral qualities and material resources may quietly attain a preponderating advantage over another. There is no such thing as a stable equilibrium of forces. The shifting of influence and strength may compel a fresh alignment of powers or an actual clash.

This is the tragic nature of the principle of Balance of Power; it does not make for peace. No *status quo* is permanent. Events are constantly happening to cause apprehension. Diplomacy has to be on the alert to sense these changes and to take proper precautions. The race for armament in Europe and elsewhere before 1914 was a gruelling contest. A limit had to be set if possible; but total disarmament was a policy which could not be contemplated by sane statesmen so long as international society was not organized to afford adequate protection to the interests of all nations. Great military burdens may be avoided but some degree of preparation and vigilance is enjoined on every nation. A blind trust in the good intentions of one's neighbors or in the efficacy of a new international panacea would leave a nation in the abject situation of the Delaware Nation when it was induced by the artful Iroquois to forsake the implements of war and assume the rôle of the mediating peacemaker among the Indian nations. The result was inevitably annihilation. Disarmament must of necessity be only a relative process and is dependent on fluctuating conditions and policies. It

requires mutual good will and honorable purposes. The presence of one powerful nation with predatory purposes imposes a reasonable vigilance and military precautions on the part of its neighbours.

Perhaps the most influential factor in international politics is the economic one. The economic interpretation of history may have been pressed too far but it would be unwise to deny its large measure of truth. The necessity for basic raw products, for fair trade in open markets, and fields for investment of industry and capital impels nations into rivalries and clashings of interests that too often have resulted in war. Witness the Russo-Japanese War over Korea and Manchuria; also the notorious Bagdad Railway Concession which has played so prominent a rôle in the Eastern Question!

Until nations can be reasonably sure of their economic interests, they cannot be negligent of the intense game of international politics throughout the world. Wherever special advantages in resources and markets are to be had, there will be found rival nations. It is a game calling for immense skill, nerve, and eternal vigilance.

This great game is to be seen in its most interesting aspects at international conferences such as at Washington and Genoa. The notion that nations at such gatherings are moved largely by altruistic motives and lay all their cards on the table is childishly naive. The first rule of this intricate political game is the rule of *quid pro quo: do ut des*. Little is voluntarily given except on the basis of an equiv-

alent consideration. The public meetings and announcements have slight significance compared with private conversations between statesmen. The broad lines of international conferences are generally agreed upon in principle by the controlling powers before they assemble. Lord Rowton, private secretary to Disraeli, once recounted to the writer how the great Prime Minister and Bismarck in the course of a delightful social conversation casually agreed on the policy that controlled the Berlin Congress and enabled Beaconsfield to return to London with his unwarranted slogan of "Peace with Honor." In modern times no greater master of this highly technical art of negotiation through international conferences has been seen than Balfour. His skill at the Washington Conference commands the highest admiration. Without losing the friendship of either Japan or the United States he was able to advance Great Britain's interests in a most brilliant manner. The results attained at Washington were probably as much in favor of the British Empire as of Japan. Secretary Hughes revealed extremely able qualities in his splendid generalship at this Conference though it is open to question whether the United States gained any advantages commensurate with those of Great Britain and Japan.

Not all international conferences are as happy in their spirit and mutual understandings as that in Washington. If they serve to reveal irreconcilable antagonisms and to exacerbate existing rivalries and distrust, they are greatly to be deplored. Too often

national pride is injured and passions aroused by conferences where statesmen have one eye on home politics or pursue ulterior ends of a questionable character. The power of nations to understand each other and to make allowances for their mutual defects and political exigencies is infinitely harder to attain than among private individuals. And we know full well how painfully difficult it is even for men of like interests at times to understand each other in a large generous spirit! How much greater charity and generosity are demanded in the vast field of international politics!

Still another aspect of international politics deserving special consideration is its relation to domestic politics. In the old days kings went to war in a Machiavellian spirit to distract their subjects from disagreeable situations at home. Statesmen today still play home politics in international matters. Witness the various diplomatic crises between France and Great Britain since the Armistice which served in diverse ways the political ends of Lloyd George, Millerand, Briand, and Poincaré!

Too often, national antipathies and fears are exploited by political parties, as in the Canadian election of 1911, when the Conservative Party came into power by alleging a conspiracy on the part of the United States to annex Canada! The Irish question is one of those domestic controversies which unfortunately affect foreign relations, as Lloyd George pointed out to the House of Commons in urging the passage of the Home Rule Bill in 1914. No American statesman can afford to

ignore the regrettable influence of this problem on home politics, and the deplorable tendency to seek a partisan advantage by "twisting the lion's tail."

The influence of religion in international politics has been powerful at times, notably in the Wars of the Reformation. The Vatican is a well recognized institution at work throughout international society and possessing great diplomatic influence, particularly since the Great War. This has been recognized by the action of a considerable number of nations in accrediting permanent diplomatic agents near the Holy See.

The great part played by the many millions of Moslems in world politics has been strikingly set forth in Lothrop Stoddard's interesting book "The New World of Islam." Great Britain and France in particular, with their various problems in India, Egypt, Algeria, and elsewhere, have had to reckon with the passions and sentiment of their Moslem subjects. The Sultan of Turkey, who by courtesy is the civil head of the Dar-ul-Islam, has been permitted to retain his capital in Constantinople because of this sentiment. The solidarity of the Moslem world is a fact which limits the freedom of action of the Great Powers in the Near East.

The Zionist movement since the Great War has achieved a great influence in international politics. Great Britain was led by various motives to promise the Jews a "national home" in Palestine in the face of the claims of the Moslem and Christian inhabitants of the Holy Land as well as the protests of Christendom voiced by the Vatican. The situa-

tion there is none too promising, particularly in view of the recrudescence of the spirit of anti-Semitism, awakened partly by the undue prominence of Jews in Bolshevik and other radical movements; and partly by the apprehension that Zionists are more concerned with preventing the assimilation of Jews among the nations than in finding an asylum of their own. That the Jewish problem is a factor of considerable influence in international politics would seem painfully certain.

Attention has already been drawn to the commanding influence of Labor and of Socialism in world affairs. We have seen how Labor has organized internationally alongside of the League of Nations, and how its power amounts almost to a supra-national institution. As for Socialism, though its adherents are not always in accord with Labor leaders, it is also an important and a disintegrating factor. Its watchword, as employed by the Bolsheviks—"Workmen of the World, Unite"—is no empty phrase. There are Socialist statesmen in various European countries who are bound to be profoundly influenced in their foreign policies by the ideas and feelings of the international Socialists. This is a factor which the Bolsheviks were keen to appreciate. It is a factor which no nation can afford to ignore. The unrest and changes going on in the industrial world are sapping the very foundations of international society. This movement may prove to have as great significance as the transformation of the Roman Empire by Christianity.

Such are some of the great factors affecting the

game of international politics. Enough has been adduced perhaps to demonstrate how complicated and difficult it is. It is a game in which ideals are by no means excluded any more than in domestic politics. The skilled international players are compelled to take into account all the varying influences that affect the relations of nations. Politics are but the execution of policies; and policies are dictated by many strange influences.

We know the susceptibilities of men: the whims, fancies, prejudices, preferences, passions, ideas, and ideals that sway them. Even very good men are not above playing politics in church and philanthropic enterprises. Mankind has not yet evolved so far on the road towards perfection that men can act like angels and supermen. History shows "with how little reason human affairs have been conducted." Governments are formed and guided oftentimes in a stupid, stumbling manner. The record of political evolution is in many ways discouraging. But this demands greater charity, particularly in judging the relations of international society. We should have much greater consideration and sympathy for those statesmen on whom fall at times such terrific burdens as in 1914. Not all statesmen are Machiavellian and wicked in purpose: they may be merely ignorant and of mediocre stature. Their obligations to protect national interests while forwarding the best interests of the society of nations are not always easily to be met. The intelligence and poise required to steer the ship of state through the hurricanes of international poli-

tics are often beyond their powers. When the storm breaks the most statesmen can do sometimes is little more than to keep the ship afloat. It is not for the passengers to cavil and mutiny.

This is not to deny the right and the sacred duty of all citizens to take part in international politics. On the contrary they are called on as never before to study the game and fit themselves either for great responsibilities or to influence intelligently public opinion in such matters. They must not be guilty of ignoring realities, of fostering illusions, of refusing to face the complicated factors of international politics. In striving for great ideals they should have great sympathy for those statesmen on whom rests the terrible burden of the welfare of international society.

REFERENCES

- Problems of Power: Wm. Morton Fullerton.
L'Équilibre Européen: Charles Dupuis.
The Development of European Nations: J. Holland Rose.
International Politics: Cecil Delisle Burns.
An Introduction to Politics: Herbert Adams Gibbons.
International Relations: James Bryce.
Origins of the Triple Alliance: A. C. Coolidge.
The Secret Treaties of Austro-Hungary: Dr. Alfred F. Pribram.
The United States as a World Power: A. C. Coolidge.
American World Policies: Walter E. Weyl.
The Monroe Doctrine, An Interpretation: Albert B. Hart.
The Washington Conference: Raymond L. Buell.
France and the Alliances: André Tardieu.
The Truth about the Treaty: André Tardieu.
The Diplomatic Background of the War: Charles Seymour.

A History of the Peace Treaty at Paris: H. W. V. Temperley.

The New World: Isaiah Bowman.

The New World of Islam: J. Lothrop Stoddard.

CHAPTER XIII

IMPONDERABLES

HERBERT SPENCER asserts that "Mind is not wholly or even mainly intelligence; it consists largely and in one sense entirely of feelings." Auguste Comte also affirms that "Affections, propensities, passions are the great springs of human life." And Professor Conklin in "The Direction of Human Evolution" testifies that "reason itself can be appealed to only through intellectual feeling or desire for truth."

The voice of pure reason can seldom be clearly heard in human affairs. The political evolution of international society has had but slight relation to the evolution of thought. Political theorists—it is true—have at times stimulated men to action, even to revolution, but it still remains true that reason has but little influence on the actual conduct of human relations.

Selfishness, hate, love, friendship, envy, pride, revenge, indignation, sympathy, ideals of right and wrong: these are some of the great motive forces in human affairs that inspire deeds of sublime sacrifice, of bloodshed and horror. Dispassionate, enlightened self-interest of a cold calculating nature does not guide men, as Norman Angell would so strenuously insist, in his "Great Illusion." They

do not *count the cost* of medical attendance on those they love, when desperately ill, of food for the starving, of immediate aid to those in distress, or of waging war itself against intolerable wrong and flagrant injustice. We should have good reason to be ashamed and to despair of the human race if men were not stirred at times to great sacrifices by their feelings, by what Benjamin Kidd has termed "the emotion of the ideal."

Among the great emotions which most influence men is that of the sentiment of loyalty whether to home, community, the nation, or humanity. A good citizen is one who realizes that the best interests of his neighbors are his own best interests; that the community is the proper medium for serving the welfare of all; that the nation is the logical and natural unit of organization for the advancement of the highest interests of humanity and of international society. The vision of internationalism, of a real brotherhood of man is of slight value if it does not spring out of loyalty to one's own kindred and nation. A devoted, enlightened nationalism is the necessary basis of a sound internationalism. Our discussion thus far should at least indicate the folly of ignoring the dynamic power of nationalism in the evolution of international society. Patriotism is by no means "the last refuge of a scoundrel."

Alongside of patriotism exists a profound race sentiment. It is most vividly seen in the case of the Jews who throughout the centuries of their dispersion can never forget Jerusalem. Whether in

liberal countries or under persecution,—often the most loyal of citizens,—their hearts turn with yearnings to Zion. They are unwilling to lose their racial integrity: a dual loyalty of nationality and of race would therefore seem inexorably imposed on them.

The Scot is always a Scot wherever he goes; and the Irish think of the Emerald Isle as a man thinks of his mother or sweetheart. We have already noted how great an influence the Irish problem has had on international politics. During the Great War we had striking evidence of the deep sentiment of those of German origin throughout the world for the *Vaterland*, even when they were intellectually out of sympathy with the Hohenzollern regime. This devotion to race is a powerful though imponderable factor in international relations,—beneficial on the whole—it is to be hoped,—a mediating and reconciling influence between peoples of different national allegiance.

But we are more concerned in the deep underlying forces that seem to be affecting and controlling the destinies of men and nations. Whether men be avowedly religious, agnostics, or atheists, they are at times dimly conscious of the operation of powerful laws or principles; they are aware of a purpose and intelligence that defy definition or comprehension but that unquestionably control the destinies of the human race. Many are content to speak of "Nature's laws," of instinct, of divine will, but few venture to formulate a definite philosophy of history, an explanation and a prophecy of the

direction of human evolution. The speculations of Comte and of Henry Adams concerning "the rule of phase in history" are most ingenious and stimulating. The physicists, biologists, chemists, and psychologists all deal with this supreme problem but do not as yet seem to have found a workable solution.

The economic interpretation of history has had a great fascination for many thinkers. The imperative need of man for sustenance, for fuel, for iron; the *sacra aurae fames*, the lust for trade and adventure: all these factors have undoubtedly influenced the course of history most profoundly. But the economic interpretation does not allow sufficiently for the emotions and passions of men. For example, it would seem fantastic as well as cynical to find the basic cause of the Crusades in the economic motive. Whatever the relative value of different motives may be in determining the destinies of men, it would seem clear that the economic motive is only one of many.

Lothrop Stoddard in his stimulating book "The Revolt against Civilization" has directed attention to the fact already emphasized by Henry Adams in his "Degradation of the Democratic Dogma" that the material development of civilization has outstripped human capacity for adaptation, notably in the industrial field. Men are finding this age of iron too exacting, too swift of movement, too noisy in action, too fatiguing to nerves and sinews. The craving for luxuries, for amusement, for happiness has made men restless, dissatisfied, and world-

weary. Intellectual refinements, academic theories, esoteric ideas, and wild imaginations have driven men to strange gods and diverted them from the realities of life.

The world is full of the unfit, of those who cannot adapt themselves to changing conditions and who are consciously or unconsciously in what Stoddard terms a state of "*revolt against civilization.*" Among these are many men of ability and intelligence whose ambitions have not been attained, who have become morbid under a sense of injustice either towards themselves or towards others, who are impatient for reforms and the swift achievement of social ideals. To all such, the existing order of things is abhorrent: revolution seems an inevitable alternative.

Whatever the causes may be, economic or otherwise, a surging unrest unquestionably has come over the human race. Ancient standards of values are being lost, whether in business, industry, morals, or in religion. Everything is a matter of experiment. There are many who say that the past has little of wisdom and inspiration to offer. It would seem as if the horrors of war, unsatisfied cravings, and disillusionments had left men discouraged and cynical. In the slang of the day, men are "just out of luck:" *je m'en fiche*—"nothing matters."

We find ourselves driven back on the fundamental problem of what we mean by civilization and progress. Is progress mainly a materialistic, utilitarian conception? Does it connote physical comforts or the satisfaction of intellectual refinements? Are

the bath-tub, the automobile, the aeroplane, and the Ritz-Carlton the true symbols of our age? Must we condemn people who prefer Arcadian lives of quiet and contemplation to these symbols? Is there no place for contemplative nations that prefer mysticism to materialism, the things of the spirit to the conveniences, the luxuries, the intellectual or social diversions of London, Paris, and New York?

It would seem urgent to revise our estimates of what constitutes true progress and civilization. The vertiginous mechanical evolution of the last fifty years, the incredible inventions, the marvellous technical skill of engineers, the superb visions and achievements of "captains of industry": all this has so absorbed our attention that we seem to be in grave danger of losing by atrophy the faculty of reflection and contemplation. "The world is too much with us"; the mystical side of our natures has become dulled. "Getting and spending," we may be missing the "durable satisfactions of life."

Benjamin Kidd in his book under that title has eloquently pleaded for a new "Science of Power," the power of "the emotion of the ideal" transmitted by one generation to another. He has there effectively demonstrated the failure of a civilization erected by brute force, of the disastrous application of the principle of the "survival of the fittest" to human society, whether in industry or in politics.

In stressing the power of this "emotion of the ideal," Kidd has frankly recognized with many other great thinkers the basic fact that men are controlled more by feelings than by reason. What-

ever the ideals may be that lure men's souls, low or lofty, we have a science of power that challenges men more effectively than the discredited science of brute force. The world is weary indeed of materialistic, mechanical standards of civilization. It craves something to warm the heart and stir the imagination, another standard of perfection, another compass to guide mankind in its search for beauty, truth, and justice.

The biologists have given us a scientific explanation of the origin and evolution of man, but they can only speculate concerning his future evolution. Some of them, notably Professor Conklin in "The Direction of Human Evolution," recognize a psychic phase in this process and the possibility of better things for the race. They do not, however, throw much light on the actual operation of biological principles with respect to devastating epidemics, disastrous wars, or the effects of inordinate prosperity, of changed standards of living, and other similar problems of a rapidly changing civilization.

In the study of the bee we are aware of some extraordinary principle at work, an "instinct of the hive" that impels its citizens to marvellous acts of seeming intelligence and self-sacrifice in harmony with the great cosmic processes. And so likewise we cannot escape the conclusion that mankind is under the compulsion of some principle of "attraction," of laws of progress and perfection that we cannot fully understand or evaluate. We can only ask towards what "divine, far-off event" is the human race tending: towards triumph or disaster?

There is one biological factor that gravely concerns international society, and that is the problem of the diverse races. A comparison of the white, yellow, brown, and black races leads one to ask whether these colors can ever be successfully blended. From the biological standpoint racial antagonisms would appear to be something deeper than mere prejudice. The Eurasian, apparently, is more Asiatic than European. The Japanese does not seem to like the half-breed any more than does the American. The mulatto is at home with neither blacks nor whites. In spite of wayward passions that sometimes lead men in strange paths they seem instinctively to prefer to maintain their own racial integrity: they do not care for the hybrid. In this aversion they would seem to be in harmony with the laws of Nature which seeks sedulously to preserve the purity of breeds throughout the various species of organic life.

The racial problems throughout the world cannot readily be dismissed as the result of prejudice or snobbishness. The aversion to the mixture of breeds is often mutual. It does not signify either inequality or hatred; but a fundamental antagonism that concerns most vitally the evolution of the human race. We have the right and the obligation to seek to fathom the ultimate purpose of Nature in order to achieve the highest welfare of society. Does Nature expect the free intermingling of the races and the perfection of one homogeneous type? Or is the evolution of mankind to be through diversity of racial types?

If the goal of evolution is towards the perfection of one homogeneous type, the sooner nations accommodate themselves to this end the better it will be for their harmonious relations. If the goal of evolution, however, is to be attained through diversity of racial types, as would seem more probable, we must frankly base international relations on a large tolerance for racial differences and preferences: we must seek to further the best interests of all by emulation and coöperation, not by processes of the assimilation and amalgamation of races. A candid recognition of profound differences is demanded; not the assertion of fictitious similarities and identities.

The racial problem is unquestionably one of the greatest of the imponderable factors affecting the evolution of international society. It concerns the cultivation of good will and the maintenance of peace among nations much more vitally than many are willing to recognize.

Still another of the imponderables is the influence of Democracy. Ignoring for the moment, if we can, our theories and pre-posessions, can we truthfully affirm that the democratic principle, either in its actual operations or in its ultimate effects among men of diverse temperaments and ideals, means more wisdom, more caution, less passion, less prejudice, less distrust among nations, less strife? A sober consideration of mob psychology, of the workings of the "group mind," of the behaviour of demagogues, of an unbridled press, of immaturity of political development, of the fermentation of new

wine in old bottles leads one to regard with grave apprehension the influence of Democracy on international intercourse.

This is not to ignore, of course, that certain nations have demonstrated a much higher capacity for self-government than other nations, whether old or young. We are primarily concerned with the results of Democracy in backward nations where "defects of blood," vicious traits, low morals, and perverse ideals may gain the upper hand. We have admitted, it is true, that intervention is, at times, the only alternative left for the proper protection of international interests in order that civilization should not sink to lower levels. Under the democratic theory, however, men should have the right to determine their own destinies and seek freedom of development along their own national lines. And yet, if Democracy in one nation—and that, a great nation—should evolve towards anarchic freedom, are the best interests of international society to be served by non-intervention?

The truth must be faced that the growth of the democratic principle of government may mean the development of a spirit of individualism among nations which will render the task of international co-operation much more difficult; and that popular discussion under stress of passion and prejudice does not conduce to easy international intercourse. A further fact to be faced is that diverse nations prefer diverse methods of government; some, autocracy—as among Moslems,—some patriarchal, oligarchic, or monarchical, and some democratic. To

impose a democratic standard between nations would be gravely resented by certain peoples.

The democratic ideal may be destined to triumph in the end, and the end may be glorious: but we should not nourish the illusion that the political evolution of international society is to be easy and harmonious. Democracy may prove a disintegrating force for a time, especially in the case of young nations, or of old ones like China which have only lately come under its influence. It is an imponderable factor in the relations of peoples that awakens mingled feelings of hope and apprehension.

One of the most disquieting, disintegrating influences at work in international society is the hideous class hatred that has been preached by Socialists for several generations. Some of its terrible fruits have been apparent in Russia, in Hungary and in Bavaria, wherever the Socialists of the extreme sort have been able to seize power. Hatred of the *bourgeoisie* as a class by the *proletariat* means hatred of the individual. The extermination of a class—to those who reason very simply and logically—means the extermination of the individual. The “social revolution” which begins as a sacred cult inevitably degenerates into murder and massacre.

Hatred only begets hatred, and renders any mutual understanding impossible. The *bourgeoisie* (which means those who live off the labour of others) instinctively are induced to hate the *proletariat* with a vindictive hatred, that in its turn, results in persecution and murder, as happened

when the "Whites" in Hungary ousted the "Reds" with the help of the Rumanians in 1919.

The writer, in a conversation with Bela Kun in Budapest during the Bolshevist rule, remarked that there was nothing so horrible, nothing so destructive, nothing so fundamentally in antagonism with the constructive, beneficent forces of the universe as this class hatred. He replied that when he was beaten up by the police a few weeks earlier he had remarked that he hoped they would take their beating when it came their turn as philosophically as he was taking his!

There can be no doubt that the most dispassionate, cold-blooded advocates of class hatred frankly believe that the existing order of things is so utterly vicious that it is impossible to create a new order until the old has been destroyed: *Quand Dieu efface, c'est qu'il prépare à écrire*. But this policy of the extermination of the *intelligensia*, of the natural leaders of reform and progress, many of whom are genuine philanthropists,—even though they may be in error in some of their social ideas,—is a tendency back towards barbarism and anarchy, an attack on civilization itself if we define civilization as the evolution of society towards perfection. Society is reformed not by destruction but by persuasion and education.

It would seem as if this spirit of class hatred is vastly on the increase, even among many who are not avowedly Socialists. The general discontent among the toilers of the world has been tending towards a sullen hatred of all those possessing prop-

erty. The growth of the democratic ideal has had its repercussions in industry, where employees are demanding a voice in the management of business and resent what they consider the "Prussian methods of Capitalists."

Class hatred is a corroding, disintegrating influence. It cuts straight across frontiers; is subversive of national loyalty and of international cooperation. It is independent of, and opposed to, the normal methods of intercourse between nations. This fact is significantly shown in the aversion of Socialists to the League of Nations which they regard as the instrument of capitalistic governments—a new Holy Alliance to crush the *proletariat*.

The "workers of the world" are becoming conscious of a solidarity of interest that is antagonistic to genuine international organization. They are forming a *bloc* that may seriously retard or prevent the achievement of ideals that can never have anything in common with class consciousness and class hatred.

We are accustomed to speak of peace as something to be "pursued," overtaken, and preserved, a tangible thing to be acquired as one acquires an automobile. Good will among men is to be had by earnest desire, and a friendly understanding by a mere effort of will! There are those who affirm that "you cannot hate a man if you know him"—a most dubious assertion in the light of human experience. A consciousness of diametrically opposed principles of justice and morals more naturally

evokes an intense indignation and dislike, though in rare men of large vision it may evoke a spirit of forbearance and pity.

History reveals most unhappily how hard it is to foster the spirit of tolerance, whether in business, in justice, in ethics, in religion, or in any of the human relations. The education of mankind is so stupendous and slow a process that it would be rash to affirm that the spirit of tolerance and mutual understanding can be attained at will in a day or in a generation.

Understanding! What an inscrutable word! If our discussion thus far has served its purpose, it should make us realize that a clear understanding of the nature and interests of international society is to be had only by laborious investigation, by wide observation, by deep experience, and by generous insight. It is not available to the ordinary man absorbed in gainful, scientific, or philanthropic pursuits. It is hardly attainable by the masses of the various nations.

The education of mankind in international matters demands the greatest humility and consecration on the part of the leaders of public opinion. We have noted how peculiar a thing is a consensus of opinion, this compromise agreement of men concerning both facts, principles, and programs; how easily the "group mind" is swayed by emotion, by unprincipled demagogues, by narrow-minded sectarians, by politicians, and by a commercialized press, as well as by idealists who know better how to fire the imaginations of men than to achieve. It is

difficult to define or to measure public opinion, but we know that it is a whimsical, tyrannical force that may be used for evil as well as for good purposes.

The problem of international public opinion baffles analysis. In recent years we have seen the effective use of international propaganda: the deliberate—and at times—the insidious attempt to influence public opinion throughout the world. It is evident that propaganda—the skillful advertising of ideas—is a most dangerous weapon when backed by money and brains. Too often, newspapers present propaganda under the guise of news. Not all journalism is clean and conscientious. It may sometimes be effectively and dangerously used by governments and statesmen as Bismarck cynically demonstrated with his “reptile press.”

The conception of an enlightened, impartial public opinion among nations is an ideal to strive for, but it would be foolhardy to affirm that it is anywhere within reach at the present stage of development of international society. Not that nations are unsusceptible to generous emotions of sympathy in the sufferings and disasters of others, or of horror against gross cruelty and injustice. The Great War showed how nations could unite in detestation and fear of a common foe. The response to the needs of the hungry and the starving throughout the world in recent years has been inspiring.

The spirit of altruism is vastly on the increase in spite of the cynicism of those who believe that human nature is essentially selfish. What we must

bear in mind, however, is that in questions affecting national interests, affections, and pride men are but human: they cannot be expected *en masse* to think dispassionately and objectively. Even where several nations may seem to think alike, it may be due primarily to the fact that their common interests are affected. This was evident in the discussion over the right of the United States under the Hay-Pauncefote Treaty to exempt American vessels engaged in coastwise trade from the payment of tolls through the Panama Canal. Of course they thought alike when they were to benefit alike through any advantages gained by Great Britain in its controversy with the United States!

The judicious, dispassionate, unselfish cosmopolitan who can entirely divest himself of national preferences and prejudices is a rare person indeed, even in high courts of arbitration. The "international mind" may exist in rare instances of true grandeur of soul: it cannot truthfully be said to be a general dominating fact in the intercourse of nations.

The supreme problem of international society is to find unity out of the divergences and differences of nations; to discover a greatest common denominator that will enable men to interpret their varying interests and aims, that will enable them to come together on a plane of genuine brotherhood. This would not appear possible either by ignoring fundamental distinctions or by assuming that all men are essentially the same. Men truly begin to understand each other when they generously recog-

nize and allow for the profound differences and inequalities that separate peoples. This is the beginning of wisdom among nations.

The next step towards the goal of human brotherhood is in an honest attempt to think in universal terms; to try earnestly to ascertain those basic laws which control all men alike. Grotius and many others tried to do this by invoking the Law of Nature, that inner guide which is said to tell a man whether an act is base or noble, just or unjust. But we have already observed that there is no evidence that all men agree on this absolute, rational standard governing their feelings and consciences. No real Law of Nature as a Magna Charta of justice and ethics receiving general assent and respect has ever existed, even among Christians.

The truth lying within this concept of a Law of Nature, of a common law ruling mankind, would appear neither rationalistic in the strict sense, nor even ethical. It would seem to consist in a consciousness among men of all races—primitive as well as refined—that there are spiritual laws governing the origin and destinies of man. This concept is not in opposition to either reason or morals; it transcends both.

William James, in *The Varieties of Religious Experience*, bears witness most eloquently and convincingly to the fact that in all the great religions and in all the varied religious experiences of mankind are to be found common characteristics, notably in a belief in "a Divinity that shapes our ends, rough hew them how we will."

Religion, therefore,—defined as “the personal adjustment of man to the universe”—is to be the greatest common denominator in international society to enable men to understand each other and realize their common brotherhood. It is not to be the denominator of the Buddhists, of the Moslems, of the Hebrews, or of the Christians. It is to be a synthesis, a fusion, a merging of all in that religious consciousness which Paul expressed so sublimely on Mars Hill among the Greek intellectuals and æsthetes: “God that made the world and all things therein, seeing that He is Lord of heaven and earth, dwelleth not in temples made with hands: neither is worshipped with men’s hands, as though He needed any thing, seeing He giveth to all life, and breath, and all things; *and hath made of one blood all nations of men to dwell on all the face of the earth, and hath determined the times before appointed, and the bounds of their habitation; that they should seek the Lord, if haply they might feel after Him, and find Him, though He be not far from every one of us: for in Him we live, and move, and have our being; as certain of your own poets have said, ‘For we are also His offspring.’*”

Here is the essence of universal religious thought, a common platform for mystics, philosophers, scientists, statesmen, and all earnest souls who strive honestly to solve the ultimate problem of the human race. Here is the answer to the futile striving of an age that has placed too great reliance on “reeking tube and iron shard.” Here is the answer to the vague unrest and discontent that leaves men

without faith even in themselves. Here is the answer to class hatred in the realization of a common origin, a common destiny, and a common law of generous sympathy that is in fact "the greatest thing in the world."

This religious consciousness must necessarily find expression in many diverse and strange ways, but it is essentially the same in all. When men of all nations have harmonized their lives with this universe and are intent on understanding its laws, they may be able to hear the "still small voice" that can explain all mysteries and reconcile all differences. They may then live in one true brotherhood and work out successfully the stupendous problems of international society.

REFERENCES

- The Degradation of the Democratic Dogma: Henry Adams.
The Great Society: Graham Wallas.
The Science of Power: Benjamin Kidd.
The Psychology of Nations: G. E. Partridge.
Modern Democracies: James Bryce.
Public Opinion and Popular Government: A. Lawrence Lowell.
The Direction of Human Evolution: Edwin Grant Conklin.
Beyond War: Vernon L. Kellogg.
The Revolt against Civilization: J. Lothrop Stoddard.
The Varieties of Religious Experience: William James.
The Religious Consciousness: James Bissett Pratt.

BIBLIOGRAPHY

ADAMS, HENRY: *The Degradation of the Democratic Dogma*. New York, The Macmillan Company, 1920.

BAGEHOT, WALTER: *Physics and Politics*. New York, D. Appleton & Co., 1902.

BALCH, THOMAS WILLING: *International Courts of Arbitration*. Philadelphia, Allen, Lane & Scott, 1912.

BEERS, GEORGE LOUIS: *The English-Speaking Peoples*. New York, The Macmillan Company, 1917.

BLUNTSCHLI, J. K.: *The Theory of the State*. Oxford, At the Clarendon Press, 1895. Third Edition.

BOWMAN, ISAIAH: *The New World*. Yonkers-on-Hudson, New York, World Book Company, 1921.

BROWN, PHILIP MARSHALL: *International Realities*. New York, Charles Scribner's Sons, 1917.

BRYCE, JAMES (VISCOUNT): *International Relations*. New York, The Macmillan Company, 1922. *Modern Democracies*. New York, The Macmillan Company, 1921.

BUELL, RAYMOND LESLIE: *The Washington Conference*, New York, D. Appleton & Co., 1922.

BURNS, CECIL DELISLE: *International Politics*. London, Methuen & Co., 1920. *The Morality of Nations*. London, Methuen & Co., 1920.

CAMBRIDGE MODERN HISTORY: Cambridge University Press, 1909.

CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE: *Arbitrations and Diplomatic Settlements of the United States*, 1914.

CONKLIN, EDWIN GRANT: *The Direction of Human Evolution*. New York, Charles Scribner's Sons, 1921.

COOLIDGE, ARCHIBALD CARY: *Origins of the Triple Alliance*. New York, Charles Scribner's Sons, 1917. *The United States as a World Power*. New York, The Macmillan Company, 1908.

DICKINSON, EDWIN DEWITT: *The Equality of States in International Law*. Harvard University Press and Oxford University Press, 1920.

DOMINIAN, LEON: *The Frontiers of Language and Nationality in Europe*. New York, H. Holt & Co., 1917.

DUGGAN, STEPHEN P.: *The League of Nations*. Boston, The Atlantic Monthly Press, 1919.

DUPUIS, CHARLES: *L'Équilibre Européen*. Paris, Perrin et Cie., 1909.

FOLLETT, M. P.: *The New State*. New York, Longmans, Green & Co., 1918.

FORD, HENRY JONES: *The Natural History of the State*. Princeton University Press, 1915.

FOSTER, JOHN W.: *The Practice of Diplomacy*. Boston and New York, Houghton Mifflin Co., 1906.

FULLERTON, WM. MORTON: *Problems of Power*. New York, Charles Scribner's Sons, 1915.

GAREIS, KARL: *Introduction to the Science of Law*. Boston, The Boston Book Co., 1911.

GIBBONS, HERBERT ADAMS: *An Introduction to Politics*. New York, The Century Company, 1922.

HALL, W. E.: *International Law*. Oxford, Clarendon Press, 1909. Sixth Edition.

HART, ALBERT BUSHNELL: *The Monroe Doctrine. An Interpretation*. New York, The Macmillan Company, 1917.

HASKINS, CHARLES H. AND LORD, ROBERT H.: *Some Problems of the Peace Conference*. Harvard University Press, 1920.

HEATLEY, D. P.: *Diplomacy and the Study of International Relations*. Oxford, Clarendon Press, 1919.

HICKS, F. C.: *The New World Order*. New York, Doubleday, Page & Co., 1920.

HILL, DAVID JAYNE: *World Organization*. New York, Columbia University Press, 1911.

HOLDICH, SIR THOMAS H.: *Political Frontiers and Boundary Making*. London, Macmillan & Co., 1916.

HOLDSWORTH, W. S.: *A History of Common Law*. London, Methuen & Co., 1903.

HOLLAND, T. E.: *Jurisprudence*. Oxford University Press, 1906.

HYDE, CHARLES CHENEY: *International Law*. Boston, Little, Brown & Co., 1922.

JAMES, WILLIAM: *The Varieties of Religious Experience*. London and New York, Longmans, Green & Co., 1908.

KELLOGG, VERNON L.: *Beyond War*. New York, H. Holt & Co., 1912.

KIDD, BENJAMIN: *The Science of Power*. New York and London, G. P. Putnam's Sons, 1918.

LAWRENCE, T. J.: *The Society of Nations*. Oxford University Press, 1919.

LEAGUE: *The League of Nations Starts. An Outline by its Organizers*; London, Macmillan & Co., 1920.

LE BON, GUSTAVE: *The Crowd*. London, T. F. Unwin, 1920.

LORIMER, JAMES: *Institutes of the Law of Nations*. Edinburgh and London, William Blackwood & Sons, 1883.

LOWE, B. E.: *The International Protection of Labor*. New York, The Macmillan Company, 1921.

LOWELL, A. LAWRENCE: *Public Opinion and Popular Government*. New York and London, Longmans, Green & Co., 1913.

MAHAN, A. T.: *Armaments and Arbitration*. New York and London, Harpers & Brothers, 1912.

MACDOUGALL, WILLIAM: *The Group Mind*. Cambridge University Press, 1920.

MOORE, JOHN BASSETT: *The Principles of American Diplomacy*. New York and London, Harper & Brothers, 1918.

MUIR, RAMSAY: *Nationalism and Internationalism*. London, Constable & Co., 1916.

MURRAY, GILBERT: *The Problem of Foreign Policy*. London, G. Allen & Unwin, 1921.

OPPENHEIM, L.: *International Law*. New York and London, Longmans, Green & Co., 1920. Third Edition.

PARTRIDGE, G. E.: *The Psychology of Nations*. New York, The Macmillan Company, 1919.

POLLOCK, SIR FREDERICK: *The League of Nations*. London, Stevens & Sons, 1920.

POLLOCK AND MAITLAND: *History of English Law*. Boston, Little, Brown & Co., 1899. Second Edition.

POTTER, PITMAN B.: *An Introduction to the Study of International Organization*. New York, The Century Company, 1922.

PRATT, JAMES BISSETT: *The Religious Consciousness*. New York, The Macmillan Company, 1920.

PRIBRAM, DOCTOR ALFRED F.: *The Secret Treaties of Austro-Hungary*. Cambridge, Harvard University Press, 1920.

REINSCH, PAUL S.: *Public International Unions*. Boston and London, Ginn & Company, 1911.

ROSE, J. HOLLAND: *The Development of European Nations, 1870-1914*. London, Constable & Co., 1915. *Nationality in Modern History*. New York, The Macmillan Company, 1916.

SAROLEA, CHARLES: *Europe and the League of Nations*. London, G. Bell & Co., 1919.

SATOW, RT. HON. SIR FREDERICK: *Diplomatic Practice*. New York and London, Longmans, Green & Co., 1917.

SAYRE, F. B.: *Experiments in International Administration*. New York and London, Harper & Brothers, 1919.

SCHUCKING, WALTHER M. A.: *The International Union of the Hague Conferences*. Carnegie Endowment for International Peace, 1918.

SCOTT, JAMES BROWN: *An International Court of Justice*. Oxford University Press, 1916.

SEYMOUR, CHARLES: *The Diplomatic Background of the War*. New Haven, Yale University Press, 1916.

STODDARD, J. LOTHROP: *The New World of Islam*. New York, Charles Scribner's Sons, 1920. *The Revolt against Civilization*. New York, Charles Scribner's Sons, 1922.

SWEETSER, ARTHUR: *The League of Nations at Work*. New York, The Macmillan Company, 1920.

TARDIEU, ANDRÉ: *France and the Alliances*. New York, The Macmillan Company, 1908. *The Truth About the Treaty*. Indianapolis, The Bobbs-Merrill Company, 1920.

TEMPERLEY, H. W. V.: *A History of the Peace Treaty at Paris*. London, Hodder & Stoughton, 1920.

TOYNBEE, ARNOLD: *Nationality and the War*. London and Toronto, J. M. Dent & Sons; New York, E. P. Dutton & Co., 1915.

TROTTER, W.: *Instincts of the Herd in Peace and War*. London, T. F. Unwin, 1916.

WALLAS, GRAHAM: *The Great Society*. New York, The Macmillan Company, 1914.

WESTLAKE, JOHN: *International Law*. Cambridge University Press, 1904.

WEYL, WALTER E.: *American World Policies*. New York, The Macmillan Company, 1917.

WILLOUGHBY, W. W.: *The Nature of the State*. New York, The Macmillan Company, 1916.

WILSON, GEORGE GRAFTON: *International Law*. St. Paul, Minnesota, West Publishing Co., 1910.

WITHERS, HARTLEY: *International Finance*. New York, E. P. Dutton & Co., 1916.

YORK, ELIZABETH: *Leagues of Nations, Ancient, Mediæval, and Modern*. London, The Swarthmore Press, 1916.

YOUNG, GEORGE: *Diplomacy, Old and New*. London, The Swarthmore Press; New York, Harcourt, Brace & Howe, 1921.



207589.

Pol.Sci.

Author Brown, Philip Marshall

B8794i

Title International society.

University of Toronto
Library

DO NOT
REMOVE
THE
CARD
FROM
THIS
POCKET

Acme Library Card Pocket

Under Pat "Ref. Index File"

Made by LIBRARY BUREAU

